



# California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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## PROPOSED ACTION ON REGULATIONS

*Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.*

### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by section 83112 of the Government Code and 2 Cal. Code Regs. section 18312, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. A public hearing on the proposed regulations will be held on or after **December 1, 2005**, at the offices of the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California 95814, commencing at approximately **9:30 a.m.** Written comments to be submitted to the Commission prior to the hearing must be received no later than **5:00 p.m. on November 29, 2005**, at the Commission offices.

#### BACKGROUND/OVERVIEW

The Political Reform Act (the "Act") was adopted by the voters of California in 1974. One of the founding declarations contained in the Act is that public officials, whether elected or appointed, should perform their duties in an impartial manner, free from any bias caused by their own financial interests or the financial interests of persons who have supported them. (§ 81001, subd. (b).) In keeping with that declaration, a fundamental purpose of the Act is to ensure that the assets and income of public officials, which may be materially affected by their official actions, should be disclosed, and in appropriate circumstances the officials should be disqualified from acting in order that conflicts of interest may be avoided. (§ 81002, subd. (c).) To fulfill this purpose of disclosure, the Act requires that every agency shall adopt a conflict of interest code (§ 87300) that enumerates the positions within the agency that involve making and participating in making governmental decisions, which may have a material financial effect on the economic interests of the officials occupying those positions and the types of economic

interests that the officials must therefore disclose (§ 87302, subd. (a).) Every agency's conflict of interest code must be approved by the code reviewing body for that agency in order to take effect. (§ 87303.) The Commission is the code reviewing body for all state and multi-county agencies except for agencies in the judicial branch of government and the Commission itself. (§ 82011, subd. (a).) Pursuant to the Commission's statutory authority to act as the code reviewing body for state and multi-county agencies, the Commission adopted regulation 18751, which sets forth a process by which the Commission may exempt a state or multi-county agency under its jurisdiction from the requirement that it adopt a conflict of interest code, provided the agency satisfies certain criteria indicating that adoption of a code would not produce significant disclosure of economic interests that would be the source of conflicts of interest.

In addition to serving as the code reviewing body for state and multi-county agencies, the Commission also has responsibility for providing advice to those requesting it with respect to their duties under the Act. (§ 83114, subd. (b).) Rules concerning the advice that the Commission may provide regarding the interpretation of an agency's conflict of interest code or the application of that code to a specific individual are set forth in regulation 18329.5.

As an agency's conflict of interest code must enumerate the positions within the agency that involve making and participating in making governmental decisions that may have a material financial effect on the economic interests of the officials occupying those positions (§ 87302, subd. (a).), a fundamental question that an agency must answer in drafting a conflict of interest code, and the code reviewing body must answer before approving a code, is which officials in the agency, if any, possess decisionmaking authority. Regulation 18701, subdivision (a)(1) specifies when a committee, board, or commission possess decision-making authority.

Proposed amendments to regulations 18751, 18329.5, and 18701 would: provide greater procedural and substantive clarity to the process by which the Commission may exempt a state or multi-county agency from the requirement that it adopt a conflict of interest code; distinguish the advice or assistance that the Commission may provide to agencies and individuals regarding their duties under the Act from the exemption process of regulation 18751; and distinguish committees, boards, and commissions having decisionmaking authority from certain others that would be deemed not to have such authority.

DISCUSSION OF PROPOSED  
REGULATORY ACTION

*Amend regulation 18751: Procedure and Standards for Obtaining Exemption from Government Code Section 87300, Requiring Adoption and Promulgation of a Conflict of Interest Code.*

Proposed amendments to regulation 18751 accomplish the following objectives, at the subdivisions noted:

- Specify that a governmental body qualifying as an agency must adopt a conflict of interest code or be included within another agency's conflict of interest code unless granted an exemption as provided in regulation 18751. (Subd. (b).)
- Declare that obtaining an exemption as provided in regulation 18751 is the exclusive means by which an agency may obtain an exemption from the requirement to adopt a conflict of interest code. (Subd. (b).)
- Revise the criteria for the granting of an exemption. (Subds. (c), (d), and (e).)
- Require a request for an exemption to state a basis for the exemption. (Subd. (d).)
- Give the Executive Director express authority to grant or extend an exemption to an agency on his or her own initiative in the absence of a request from the agency. (Subd. (d).)
- Revise the materials that must be submitted with an agency's request for an exemption. (Subds. (e), (f), and (g).)
- Provide for the 30-day filing requirement imposed by section 87302.6 to be tolled while a request for exemption is pending with the Commission. (Subd. (i).)
- Provide for the six-month time limit for the adoption of a conflict of interest code imposed by section 87303 to be tolled while a request for exemption is pending with the Commission. (Subd. (i).)
- Require a grant of exemption to state the basis for the exemption. (Subd. (j).)
- Specify how notice that an exemption has been granted or denied shall be communicated to interested persons. (Subds. (j) and (k).)
- Set a time limit on when a request may be made for reconsideration by the Commission of a grant or denial of an exemption by the Commission's Executive Director. Subds. (j) and (k).)
- Distinguish an exemption request from formal advice or informal assistance given to an individual pursuant to regulations 18329 and 18329.5, concerning his or her filing duties under an existing conflict of interest code. (Subd. (l).)

- Set a limit on the duration of an exemption. (Subd. (m).)
- Establish a process for an exemption to be renewed. (Subd. (m) and (n).)

*Amend regulation 18329.5: Commission Advice Procedure—Government Code sections 87300–87306.*

A proposed amendment to regulation 18329.5, subdivision (c) would distinguish advice or informal assistance regarding whether an entity qualifies as a state or local government agency, or what positions should be included in an agency's conflict of interest code, from a response to a request for an exemption pursuant to regulation 18751.

*Amend regulation 18701: Public Official, Definitions.*

A proposed amendment to regulation 18701, subdivision (a)(1) would declare that a committee, board, or commission does not possess decisionmaking authority if it is formed for the sole purpose of researching a topic and preparing a report or recommendation for submission to another governmental body that has final decisionmaking authority.

Fiscal Impact on Local Government. These regulations will have no fiscal impact on any local entity or program.

Fiscal Effect on State Government. These regulations will have no fiscal impact on any state agency or program.

Fiscal Effect on Federal Funding of State Programs. These regulations will have no fiscal impact on any federally funded state program or agency.

AUTHORITY

Government Code section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act. Government Code section 82011, subdivision (a) provides that the Fair Political Practices Commission is the code reviewing body for all state and multi-county agencies except for agencies in the judicial branch of government and the Commission itself.

REFERENCE

The purpose of these regulations is to implement, interpret and make specific Government Code Sections as follows: sections 82019, 82048, 83108, 83114 subdivision (b), 87100, 87200, and 87300–87306.

CONTACT

Any inquiries concerning the proposals should be made to Steven Benito Russo, Fair Political Practices Commission, 428 J Street, Eighth Floor, Sacramento,

California 95814, telephone (916) 322-5660. Proposed regulatory language can be accessed at [www.fppc.ca.gov](http://www.fppc.ca.gov).

#### ADDITIONAL COMMENTS

After the hearing, the Fair Political Practices Commission may adopt the proposed regulation if it remains substantially the same as described or as in the text originally made available to the public. The Fair Political Practices Commission may make changes to the proposed regulation before its adoption.

## TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by section 83112 of the Government Code and 2 Cal. Code Regs., section 18312, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. A public hearing on the proposed regulation will be held on or after December 1, 2005, at the offices of the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California 95814, commencing at approximately 9:45 a.m. Written comments to be submitted to the Commission prior to the hearing must be received no later than 5:00 p.m. on November 29, 2005, at the Commission offices.

#### BACKGROUND/OVERVIEW

Under the eight-step analysis for determining whether a public official has a disqualifying conflict of interest in a governmental decision, the last two steps—determining whether the public generally exception applies to the decision, or whether the official is legally required to participate in the decision—have been viewed by the agency as affirmative defenses to a conflict of interest violation. However, regulations do not explicitly state which party—the respondent or the prosecution/enforcement—has the burden of proof.

In light of this issue, the Commission will consider amending regulations 18700, 18707 and 18708 to provide that in an enforcement action brought pursuant to § 87100, the public official has the burden of proving that the public generally and/or the legally required participation exceptions apply.

#### DISCUSSION OF PROPOSED REGULATORY ACTION

The Commission may adopt the language noticed in these proposed regulations, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

Fiscal Impact on Local Government. These regulations will have no fiscal impact on any local entity or program.

Fiscal Effect on State Government. These regulations will have no fiscal impact on any state agency or program.

Fiscal Effect on Federal Funding of State Programs. These regulations will have no fiscal impact on any federally funded state program or agency.

#### AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

#### REFERENCE

The purpose of these regulations is to implement, interpret and make specific Government Code Sections as follows: sections 81002, 81003, 87100, 87101 and 87103.

#### CONTACT

Any inquiries concerning the proposals should be made to Emelyn Rodriguez, Legal Counsel, Fair Political Practices Commission, 428 J Street, Eighth Floor, Sacramento, California 95814, telephone (916) 322-5660. Proposed regulatory language can be accessed at [www.fppc.ca.gov](http://www.fppc.ca.gov).

#### ADDITIONAL COMMENTS

After the hearing, the Fair Political Practices Commission may adopt the proposed regulation if it remains substantially the same as described or as in the text originally made available to the public. The Fair Political Practices Commission may make changes to the proposed regulation before its adoption.

## TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3700(c) of the regulations in Title 3 of the California Code of Regulations pertaining to Oak Mortality Disease Control as an emergency action on September 27, 2005. The Department proposes to continue the regulation as amended and submit a Certificate of Compliance for this action to the Office of Administrative Law no later than January 25, 2006.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department contact no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if

no public hearing is requested, the Department of Food and Agriculture may certify that there was compliance with the provisions of Section 11346.1 of the Government Code within 120 days of the emergency regulation.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before December 12, 2005.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry in California and prevent the spread of injurious pests (Food and Agricultural Code, Sections 401 and 403). Existing law also provides that the Secretary may establish, maintain, and enforce such regulations as he deems necessary to prevent the spread of pests to protect California's agricultural industry (Food and Agricultural Code, Section 5322).

Section 3700(c), Oak Mortality Disease Control regulation, established eight new associated hosts under the articles and commodities covered. The effect of this amendment to the regulation is to provide authority for the State to regulate the movement of additional associated hosts and potential carriers of the disease from the regulated area in order to prevent artificial spread of the pest to non-infested areas within California. There is no existing, comparable federal regulation or statute.

#### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that the amendment of Section 3700(c) does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under regulation has a duty to enforce Section 3700. No reimbursement is required for Section 3700 under Section 17561 of the Government Code because the agricultural commissioners of the affected counties requested the change in the regulation.

The Department also has determined that the amended regulation will involve no additional costs or savings to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State.

#### EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

#### EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

#### COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The cost impact of readopting the regulation on a representative private person or business is not expected to be significantly adverse. The agency is not aware of any new cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### ASSESSMENT

The Department has made an assessment that the proposed amendment to the regulation would not (1) create or eliminate jobs within California, (2) create new businesses or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

#### ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### AUTHORITY

The Department adopted Section 3700(c) pursuant to the authority vested by Sections 407, 5321, and 5322 of the Food and Agricultural Code of California.

#### REFERENCE

The Department amended Section 3700(c) to implement, interpret and make specific Sections 24.5, 5321, and 5322, Food and Agricultural Code; Sections 11425.50 and 11440.10, Government Code; and Section 1084 *et seq.*, Code of Civil Procedure.

#### EFFECT ON SMALL BUSINESSES

The adoption of this regulation may affect small businesses.

#### CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and

Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: [sbrown@cdfa.ca.gov](mailto:sbrown@cdfa.ca.gov). In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.

#### INTERNET ACCESS

The Department has posted on its Internet website ([www.cdfa.ca.gov/plant/index.html](http://www.cdfa.ca.gov/plant/index.html)) the information regarding this proposed regulatory action. Select "Proposed Changes in Regulations for Plant Health and Pest Prevention Services" and then section number(s).

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

## TITLE 8. DIVISION OF WORKERS' COMPENSATION

### DEPARTMENT OF INDUSTRIAL RELATIONS Workers' Compensation—Predesignation of Personal Physician; Request for Change of Physician

#### TITLE 8, CALIFORNIA CODE OF REGULATIONS Sections 9780 et seq.

**NOTICE IS HEREBY GIVEN** that the Administrative Director of the Division of Workers' Compensation, pursuant to the authority vested in her by Labor Code sections 59, 133, and 4603.5, proposes to adopt, amend and repeal sections in Article 5, Subchapter 1 to Chapter 4.5 of Title 8, California Code of Regulations,

commencing with section 9780, relating to Predesignation of Personal Physician and Request for Change of Physician.

#### PROPOSED REGULATORY ACTION

- Amend Section 9780** Definitions.
- Amend Section 9780.1** Employee's Predesignation of Personal Physician.
- Repeal Section 9780.2** Employer's Duty to Provide First Aid and Emergency Treatment.
- Amend Section 9781** Employee's Request for Change of Physician.
- Amend Section 9782** Notice to Employee of Right to Choose Physician.
- Amend Section 9783** DWC Form 9783 Predesignation of Personal Physician.
- Propose Section 9783.1** DWC Form 9783.1 Notice of Personal Chiropractor or Personal Acupuncturist.
- Repeal Section 9784** Duties of the Employer.

#### PUBLIC HEARING

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, oral or in writing, with respect to the subjects noted above, on the following dates:

- Date:** December 15, 2005
- Time:** 10:00 am to 5:00 pm or conclusion of business
- Place:** Elihu Harris State Building, Auditorium  
1515 Clay Street  
Oakland, CA 94612

The State Office Building and its Auditorium are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or other type of reasonable accommodation to facilitate effective communication for persons with disabilities, are available upon request. Please contact the State Wide Disability Accommodation Coordinator, Stephanie Leach, at 1-866-681-1459 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation. If public comment concludes before the noon recess, no afternoon session will be held.

The Administrative Director requests, but does not require that, any persons who make oral comments at

the hearings also provide a written copy of their comments. Equal weight will be accorded to oral comments and written materials.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Industrial Relations, Division of Workers' Compensation. The written comment period closes at **5:00 p.m., on December 15, 2005**. The Department of Industrial Relations, Division of Workers' Compensation will consider only comments received at the Department of Industrial Relations, Division of Workers' Compensation by that time. Equal weight will be accorded to oral comments presented at the hearing and written materials.

Submit written comments concerning the proposed regulations prior to the close of the public comment period to:

Maureen Gray  
Regulations Coordinator  
Department of Industrial Relations  
Division of Workers' Compensation  
Post Office Box 420603  
San Francisco, CA 94142

Written comments may be submitted by facsimile transmission (FAX), addressed to the above-named contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail) using the following e-mail address: [dwcrules@dir.ca.gov](mailto:dwcrules@dir.ca.gov).

Unless submitted prior to or at the public hearing, Ms. Gray must receive all written comments no later than 5:00 p.m. on December 15, 2005.

#### AUTHORITY AND REFERENCE

The Administrative Director is undertaking this regulatory action pursuant to the authority vested in the Administrative Director by Labor Code sections 59, 133, and 4603.5.

Reference is to Labor Code sections 3550, 3551, 4600, 4601, and 4616.

#### INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

These regulations are required by a legislative enactment—Senate Bill 899 (Chapter 34, stats. of 2004, effective April 19, 2004). Senate Bill 899 included Labor Code section 4600 which addresses medical treatment provided by an employer; liability for reasonable expenses; predesignation of a personal physician; expenses incurred in submitting to an examination; and the right to a qualified interpreter.

Labor Code section 4600(c) provides that unless the employer or the employer's insurer has established a Medical Provider Network as provided for in Section

4616, after 30 days from the date the injury is reported, the employee may be treated by a physician of his or her own choice or at a facility of his or her own choice within a reasonable geographic area.

Labor Code section 4600(d)(1) provides that if an employee has notified his or her employer in writing prior to the date of injury that he or she has a personal physician, the employee shall have the right to be treated by that physician from the date of injury if either of the following conditions exist: the employer provides nonoccupational group health coverage in a health care service plan, licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, or the employer provides nonoccupational health coverage in a group health plan or a group health insurance policy as described in Section 4616.7.

Labor Code section 4600(d)(2) provides that for purposes of paragraph (1), a personal physician must be the employee's regular physician and surgeon, licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, and must be the employee's primary care physician who has previously directed the medical treatment of the employee, and retains the employee's medical history and medical records. The physician must also agree to be predesignated.

Labor Code section 4600(d)(3) provides that if the employer provides nonoccupational health care pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, and the employer is notified pursuant to paragraph (1), all medical treatment, utilization review of medical treatment, access to medical treatment, and other medical treatment issues shall be governed by Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code. Disputes regarding the provision of medical treatment shall be resolved pursuant to Article 5.55 (commencing with Section 1374.30) of Chapter 2.2 of Division 2 of the Health and Safety Code.

Labor Code section 4616 provides that an employer may establish a Medical Provider Network. An employee who predesignates a personal physician, however, may choose to be treated outside of the Medical Provider Network by his or her personal physician. Labor Code section 3551 provides that written notice to new employees shall include a form that the employee may use as an optional method for notifying the employer of the name of the employee's "personal physician" as defined in section 4600 or "personal chiropractor" or "personal acupuncturist" as defined by section 4601.

The Administrative Director now adopts administrative regulations governing the Predesignation of Personal Physician; Request for Change of Physician;

and Treatment Reporting Requirements. These regulations implement, interpret, and make specific section 4600 of the Labor Code as follows:

### **1. Amended Section 9780. Definitions.**

This section is amended to provide definitions for several key terms. New definitions added to section 9780 are: "Emergency health care services," "Claims Administrator," "Nonoccupational group health coverage," and "Primary Care Physician." The definition which has been retained unchanged is "Facility." The definitions of "First aid," "Personal physician," and "Reasonable geographic area" have been changed in the amended definitions. Definitions which have been deleted in the amended section are "Employer," "Employee," "Physician," "Emergency treatment," and "Employee-selected physician."

These definitions are provided to ensure that their meaning, as used in the regulations, will be clear to the workers' compensation community.

### **2. Amended Section 9780.1 Employee's Predesignation of Personal Physician.**

This section [subdivisions (a)(1) and (a)(2)] is amended to provide that an employee may be treated for an injury by a personal physician that the employee predesignates in writing prior to the industrial injury if the employer provides nonoccupational group health coverage in a health care service plan, licensed pursuant to Chapter 2.2 (commencing with section 1340) of Division 2 of the Health and Safety Code, or nonoccupational health coverage in a group health plan or a group health insurance policy as described in Labor Code section 4616.7. The fact that the employer provides such coverage is sufficient to meet this requirement regardless of whether the employee accepts or participates in this health coverage.

Subdivision (a)(3) provides that the employee's predesignated physician must agree to be predesignated prior to the injury. The personal physician may sign the optional predesignation form provided for in section 9783 of the regulations as documentation of the agreement and may authorize a designated employee of the physician to sign the optional predesignation form. If the personal physician or his or her designee does not sign a predesignation form, there must be other documentation that the physician agreed to be predesignated prior to the injury in order to satisfy this requirement.

Subdivisions (b), (c) and (d) provide that if an employee has predesignated a personal physician prior to the effective date of these regulations, the prior predesignation is valid if the conditions above have been met. If the employer or employer's insurer has a Medical Provider Network, an employee's predesignation made in accordance with the provisions above shall be valid and the employee shall not be subject to

the employer's Medical Provider Network transfer of care policy. The predesignated physician is also not required to make referrals to physicians in the employer's Medical Provider Network.

Subdivision (e) provides that the employer shall notify the employees of the requirements of this section and provide the employees with an optional form for predesignating a personal physician.

Subdivision (f) provides that unless the employee agrees, neither the employer nor the claims administrator shall contact the predesignated personal physician to confirm predesignation status or contact the personal physician regarding the employee's medical information or medical history prior to the personal physician's commencement of treatment for the industrial injury.

Subdivision (g) provides that once the employer knows of an employee's predesignation of a personal physician and where the employer becomes liable for an employee's treatment, the claims administrator shall (1) authorize the predesignated physician to provide all medical treatment reasonably required to cure or relieve the injured employee from the effects of his or her injury; (2) provide the name and address of the person to whom billing for treatment should be sent; (3) where there has been treatment of an injury prior to commencement of treatment by the predesignated physician, arrange for delivery to the predesignated physician of all medical information relating to the claim, all x-rays, the results of laboratory studies done in relation to the injured employee's treatment; and (4) provide the physician with the fax number, if available, to be used to request authorization of treatment plans, the complete requirements of section 9785 and the forms set forth in sections 9785.2 and 9785.4. In lieu of providing the complete requirements of section 9785 and the forms set forth in sections 9785.2 and 9785.4, the claims administrator may refer the physician to the Division of Workers' Compensation's website where the applicable information and forms can be found.

Subdivision (h) provides that the employer shall provide first aid and appropriate emergency health care services reasonably required by the nature of the injury or illness, and if afterwards further medical treatment is reasonably required to cure or relieve the injured employee from the effects of his or her injury, the claims administrator shall authorize treatment with the employee's predesignated personal physician.

Subdivision (i) provides that if documentation of a physician's agreement to be predesignated has not been provided to the employer at the time of injury, treatment shall be provided in accordance with Labor Code section 4600 or 4616, if the employer or insurer has established a Medical Provider Network, as though no predesignation had occurred. However,

upon provision of the documented agreement prior to injury that meets the conditions of predesignating a physician, the employer or claims administrator shall authorize treatment with the predesignated physician.

**3. Repealed Section 9780.2. Employer's Duty to Provide First Aid and Emergency Treatment.**

This section is repealed; however, the definitions of "First aid" and "Emergency health care services" are addressed in the definitions contained in amended section 9780.

**4. Amended Section 9781. Employee's Request for Change of Physician.**

This section [subdivisions (a) and (b)(1)] is amended to provide that after 30 days from the date the injury is reported, the employee may request a one time change of physician. After requesting the change of physician, the employer shall respond to this request no later than 5 working days after the request is made and shall provide the employee with an alternative physician or if the employee requests, with a chiropractor or acupuncturist. An employee's request for a change of physician need not be in writing. This section, however, does not apply to self-insured and insured employers who offer a Medical Provider Network.

Subdivisions (b)(2) and (b)(3) provide that if an employee requesting a change of physician has notified his or her employer in writing prior to the date of injury that he or she has either a personal chiropractor or a personal acupuncturist, and where the employee so requests, the alternative physician tendered by the claims administrator to the employee shall be the employee's personal chiropractor or personal acupuncturist. The notification to the employer must include the name and business address of the chiropractor or acupuncturist. The employer shall notify its employees of the requirements for requesting a change of physician and provide the employee with an optional form for notification of a personal chiropractor or acupuncturist. In addition, the employer shall advise the employee of the name and address of the alternative physician or chiropractor or acupuncturist if requested, the date and time of an initial scheduled appointment, and any other pertinent information.

Subdivision (c) provides that after 30 days from the date the injury is reported, the employee shall have the right to be treated by a physician or at a facility of his or her own choice within a reasonable geographic area. The employee shall also notify the claims administrator of the name and address of the physician or facility selected. But the notice requirement is deemed satisfied if the selected physician or facility gives notice to the employer of the commencement of treatment or if the employer receives this information promptly from any source. If the selected physician or

facility requests, the employee shall sign a release permitting the selected physician or facility to report to the claims administrator as required by section 9785.

Subdivision (d) provides that when the claims administrator is notified of the name and address of an employee-selected physician or facility, or of a personal chiropractor or acupuncturist, the claims administrator shall (1) authorize the physician or facility or personal chiropractor or acupuncturist to provide all medical treatment reasonably required pursuant to section 4600 of the Labor Code; (2) furnish the name and address of the person to whom billing for treatment should be sent; (3) arrange for the delivery to the selected physician or facility of all medical information relating to the claim, all x-rays and the results of all laboratory studies done in relation to the injured employee's treatment; and (4) provide the physician with the fax number, if available, to be used to request authorization of treatment plans, the complete requirements of section 9785, and the forms set forth in sections 9785.2 and 9785.4. In lieu of providing the materials mentioned above, the claims administrator may refer the physician to the Division of Workers' Compensation's website where the applicable information and forms can be found.

**5. Amended Section 9782. Notice to Employee of Right to Choose Physician.**

This section is amended to provide that, except for an employer who has established a Medical Provider Network, or an employer whose insurer has established a Medical Provider Network, every employer shall advise its employees in writing of an employee's right (1) to request a change of treating physician if the original treating physician is selected initially by the employer pursuant to Labor Code section 4601 and (2) to be treated by a physician of his or her own choice 30 days after reporting an injury pursuant to subdivision (c) of Labor Code section 4600.

This section also provides that every employer shall advise its employees in writing of an employee's right to predesignate a personal physician pursuant to subdivision (d) of Labor Code section 4600, and section 9780.1. The notices provided by this section shall be provided in accordance with section 9880 and posted in accordance with section 9881.

**6. Amended Section 9783. DWC Form 9783 Predesignation of Personal Physician.**

This section is an optional form entitled "Predesignation of Personal Physician." The employee fills out this form and returns the completed form to the employer. The form enumerates the requirements for predesignation and indicates that the employee may use this form to notify his or her employer if the employee wishes to have his or her personal medical doctor or doctor of osteopathy treat the employee for a work-related injury or illness. This form requests the

name, address, and telephone number of the physician the employee intends to predesignate. This form also requests the employee's name, address, and dated signature. This form has an optional signature line for the predesignated physician's signature or the signature of the designated employee of the predesignated physician. The form specifies that if this form is not signed by the predesignated physician or the designated employee of the predesignated physician, then other documentation of the physician's agreement to be predesignated will be required pursuant to Title 8, California Code of Regulations, section 9780.1(a)(3).

**7. Proposed Section 9783.1. DWC Form 9783.1 Notice of Personal Chiropractor or Personal Acupuncturist.**

This section is a form entitled "Notice of Personal Chiropractor or Personal Acupuncturist." The employee fills out this form and returns the completed form to the employer. The form enumerates the requirements that allow an employee to change his or her treating physician to the employee's personal chiropractor or acupuncturist following a work-related injury or illness. The form requests the chiropractor or acupuncturist's name, address, and telephone number. The form also requests the employee's name, address, and dated signature.

**8. Repealed Section 9784. Duties of the Employer.**

This section is repealed as the duties of the employer are now set forth in the sections 9780.1 and 9781.

**DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION**

The Administrative Director has made the following initial determinations:

- Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- Adoption of these regulations will not: (1) create or eliminate jobs within the State of California, (2) create new businesses or eliminate existing businesses within the State of California, or (3) affect the expansion of businesses currently doing business in California.
- Effect on Housing Costs: None.
- The Division of Workers' Compensation is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**EFFECT ON SMALL BUSINESS**

The Administrative Director has determined that the proposed regulations will not affect small business.

Employers are already required to provide notice of workers' compensation benefits to their employees and to authorize medical treatment. These regulations only interpret amended Labor Code section 4600 requirements which mandate specific language regarding predesignating a personal physician.

**FISCAL IMPACTS**

- Costs or savings to state agencies or costs/savings in federal funding to the State: None. State agencies in their capacity as employers are required to provide medical care in the workers' compensation system. Predesignation of a personal physician is not a new feature. These regulations implement new statutory conditions that must be satisfied in order to designate a personal physician.
- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district.
- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None. The proposed regulations do apply to a local agency or school district in its capacity as an employer required to provide medical care in the workers' compensation system.
- Other nondiscretionary costs/savings imposed upon local agencies: None.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(13), the Administrative Director must determine that no reasonable alternative considered or that has otherwise been identified and brought to the Administrative Director's attention would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

The Administrative Director invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

**PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS**

Pursuant to Government Code section 11346.45, the text of the draft proposed regulations was made available for pre-regulatory public comment through the Division's Internet message board (the DWC Forums). Additionally, the proposed regulations were made available for discussion and comment to an advisory group made up of representatives from the workers' compensation community.

**AVAILABILITY OF INITIAL STATEMENT  
OF REASONS, TEXT OF PROPOSED  
REGULATIONS, RULEMAKING FILE  
AND DOCUMENTS SUPPORTING THE  
RULEMAKING FILE / INTERNET ACCESS**

An Initial Statement of Reasons and the text of the proposed regulations in plain English have been prepared and are available from the contact person named in this notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below.

As of the date of this notice, the rulemaking file consists of the notice, the initial statement of reasons, the proposed text of the regulations, pre-rulemaking comments, and the Form 399. Also included are studies and documents relied upon in drafting the proposed regulations.

In addition, the Notice, Initial Statement of Reasons, and proposed text of regulations may be accessed and downloaded from the Division's website at [www.dir.ca.gov](http://www.dir.ca.gov). To access them, click on the "Proposed Regulations—Rulemaking" link and scroll down the list of rulemaking proceedings to find the current Workers' Compensation Information System rulemaking link.

Any interested person may inspect a copy or direct questions about the proposed regulations and any supplemental information contained in the rulemaking file. The rulemaking file will be available for inspection at the Department of Industrial Relations, Division of Workers' Compensation, 1515 Clay Street, Oakland, California, between 9:00 a.m. and 4:30 p.m., Monday through Friday. Copies of the proposed regulations, initial statement of reasons and any information contained in the rulemaking file may be requested in writing to the contact person.

**CONTACT PERSON**

Nonsubstantive inquiries concerning this action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be requested in writing at the same address. The contact person is:

Maureen Gray  
Regulations Coordinator  
Department of Industrial Relations  
Division of Workers' Compensation  
Post Office Box 420603  
San Francisco, CA 94142  
E-mail: [mgray@dir.ca.gov](mailto:mgray@dir.ca.gov)

The telephone number of the contact person is (510) 286-7100.

**BACKUP CONTACT/PERSON CONTACT  
PERSON FOR SUBSTANTIVE QUESTIONS**

In the event the contact person is unavailable, or to obtain responses to questions regarding the substance of the proposed regulations, inquiries should be directed to the following backup contact persons:

Linda Pancho ([lpacho@dir.ca.gov](mailto:lpacho@dir.ca.gov))  
Division of Workers' Compensation  
Post Office Box 420603  
San Francisco, CA 94142

The telephone number of the backup contact persons is (510) 286-7100.

**AVAILABILITY OF CHANGES  
FOLLOWING PUBLIC HEARING**

If the Administrative Director makes changes to the proposed regulations as a result of the public hearing and public comment received, the modified text with changes clearly indicated will be made available for public comment for at least 15 days prior to the date on which the regulations are adopted.

**AVAILABILITY OF THE FINAL  
STATEMENT OF REASONS**

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website: [www.dir.ca.gov](http://www.dir.ca.gov)

**AUTOMATIC MAILING**

A copy of this Notice, the Initial Statement of Reasons, and the text of the regulations, will automatically be sent to those interested persons on the Administrative Director's mailing list.

If adopted, the regulations as amended will appear in Title 8, California Code of Regulations, commencing with section 9780.

**TITLE 8. DIVISION OF  
WORKERS' COMPENSATION**

**DEPARTMENT OF INDUSTRIAL RELATIONS  
Workers' Compensation—Return to Work**

**TITLE 8, CALIFORNIA  
CODE OF REGULATIONS  
Sections 9780 et seq.**

**NOTICE IS HEREBY GIVEN** that the Administrative Director of the Division of Workers' Compensation, pursuant to the authority vested in her by Labor Code sections 59, 133, and 4603.5, proposes to adopt sections 10001 through 10005 in Article 12 of Chapter 4.5, Subchapter 1, of Title 8, California Code of Regulations, commencing with section 10001, relating to Return to Work.

PROPOSED REGULATORY ACTION

1. **Proposed Section 10001. Definitions.**
2. **Proposed Section 10002. Offer of Work; Adjustment of Permanent Disability Payments.**
3. **Proposed Section 10003. Form [DWC AD 10003 Notice of Offer of Work.]**
4. **Proposed Section 10004. Return to Work Program.**
5. **Proposed Section 10005. Form [DWC AD 10005 Request for Reimbursement of Accommodation Expenses.]**

PUBLIC HEARING

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, oral or in writing, with respect to the subjects noted above, on the following dates:

**Date:** December 15, 2005  
**Time:** 10:00 am to 5:00 pm or conclusion of business  
**Place:** Elihu Harris State Building,  
 Auditorium  
 1515 Clay Street  
 Oakland, CA 94612

**The State Office Building and its Auditorium are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or other type of reasonable accommodation to facilitate effective communication for persons with disabilities, are available upon request. Please contact the State Wide Disability Accommodation Coordinator, Stephanie Leach, at 1-866-681-1459 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.**

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation. If public comment concludes before the noon recess, no afternoon session will be held.

The Administrative Director requests, but does not require that, any persons who make oral comments at the hearings also provide a written copy of their comments. Equal weight will be accorded to oral comments and written materials.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of

Industrial Relations, Division of Workers' Compensation. The written comment period closes at 5:00 p.m., on **December 15, 2005**. The Department of Industrial Relations, Division of Workers' Compensation will consider only comments received at the Department of Industrial Relations, Division of Workers' Compensation by that time. Equal weight will be accorded to oral comments presented at the hearing and written materials.

Submit written comments concerning the proposed regulations prior to the close of the public comment period to:

Maureen Gray  
 Regulations Coordinator  
 Department of Industrial Relations  
 Division of Workers' Compensation  
 Post Office Box 420603  
 San Francisco, CA 94142

Written comments may be submitted by facsimile transmission (FAX), addressed to the above-named contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail) using the following e-mail address: [dwcrules@dir.ca.gov](mailto:dwcrules@dir.ca.gov).

Unless submitted prior to or at the public hearing, Ms. Gray must receive all written comments no later than 5:00 p.m. on December 15, 2005.

AUTHORITY AND REFERENCE

The Administrative Director is undertaking this regulatory action pursuant to the authority vested in the Administrative Director by Labor Code sections 59, 133, 139.48, and 5307.3.

Reference is to Labor Code sections 62.5, 139.48, 4658, 4658.1, and 5814.6.

INFORMATIVE DIGEST AND POLICY  
 STATEMENT OVERVIEW

The Legislature passed Senate Bill 899 in response to the State's widely-acknowledged workers' compensation crisis. SB 899 revised the return to work program under Labor Code section 139.48. This statute, initially enacted in 2002 as part of AB 749, provides that the Administrative Director shall establish a Return to Work Program in order to promote the early and sustained return to work of an employee following a work-related injury or illness and shall adopt regulations to carry out this section. This section further provides for the establishment of a Return to Work Fund, and for limited reimbursement to small employers for expenses incurred in providing modified work to injured employees. Labor Code section 139.48 applies to injuries on or after July 1, 2004.

Senate Bill 899 also added subdivision (d) to Labor Code section 4658, which increases the number of weeks of permanent disability indemnity for severe disabilities (70% and above). This subdivision also

includes: (1) an incentive, by way of a permanent partial disability benefit payment reduction, for employers to offer to return injured employees to regular, modified or alternative work, and (2) a disincentive, by way of a permanent partial disability benefit payment increase, for employers who fail to provide an injured employee with a return to work offer. Subdivision (d) is mandated to apply to injuries occurring on or after the effective date of the revised permanent disability schedule that was adopted by the Administrative Director pursuant to Labor Code section 4660 on January 1, 2005. AB 899 also added 4658.1, which provides definitions of terms used in Article 3, including section Labor Code section 4658.

The Return to Work Program provisions under 139.48 became effective for injuries on or after July 1, 2004, and the return to work incentive under subdivision (d) is effective for injuries on or after January 1, 2005. Thus, injured workers, employers, and insurers are already attempting to deal with these statutory requirements without regulatory guidance. These regulations will guide affected parties through the statutory scheme and help effectuate a worker's prompt return to work, which will result in cost savings to employers and higher post-injury earnings for injured workers.

The Administrative Director now adopts administrative regulations governing Return to Work. These regulations implement, interpret, and make specific sections 139.48, 4658 and 4658.1 of the Labor Code as follows:

### **1. Proposed Section 10001. Definitions.**

This section provides definitions for the following key terms: "Alternative work," "Claims Administrator," "Modified Work," "Permanent and stationary," and "Regular work." The definitions are provided to ensure that their meaning, as used in the regulations, will be clear to the workers' compensation community.

### **2. Proposed Section 10002. Offer of Work; Adjustment of Permanent Disability Payments.**

Subdivision (a) of this section provides that it shall apply to all injuries occurring on or after January 1, 2005. This section shall apply to the following employers: (1) insured employers who employed 50 or more employees at the time of the most recent policy inception or renewal date for the insurance policy that was in effect at the time of the employee's injury; and (2) self-insured employers who employed 50 or more employees at the time of the most recent filing by the employer of the Self-Insurer's Annual Report that was in effect at the time of the employee's injury; and (3) legally uninsured employers who employed 50 or more employees at the time of injury.

Subdivision (b) of this section provides that within 60 calendar days from the date that an injured employee's condition becomes permanent and stationary: (1) if an employer does not serve the employee with a notice of offer of regular work, modified work or alternative work for a period of at least 12 months, each payment of permanent partial disability remaining to be paid to the employee from the date of the end of the 60 day period shall be paid in accordance with Labor Code section 4658(d)(1) and increased by 15 percent ; (2) if an employer serves the employee with a notice of offer of regular work, modified work or alternative work for a period of at least 12 months, and in accordance with the requirements set forth in paragraphs (3), and (4), each payment of permanent partial disability remaining to be paid from the date the offer was served on the employee shall be paid in accordance with Labor Code section 4658(d)(1) and decreased by 15 percent, regardless of whether the employee accepts or rejects the offer; (3) the employer shall use Form DWC-AD 10133.53 (Section 10133.53) to offer modified or alternative work, or Form DWC-AD 10003 (Section 10003) to offer regular work, additionally, the claims administrator may serve the offer of work on behalf of the employer; and (4) the regular, alternative, or modified work that is offered by the employer pursuant to paragraph (2) shall be located within a reasonable commuting distance of the employee's residence at the time of the injury, unless the employee waives this condition. This condition shall be deemed to be waived if the employee accepts the regular, modified, or alternative work, and does not object to the location within 20 days of being informed of the right to object. The condition shall be conclusively deemed to be satisfied if the offered work is at the same location and the same shift as the employment at the time of injury.

Subdivision (c) of this section provides that in the event there is a dispute as to an employee's permanent and stationary status, and there has been a notice of offer of work served on the employee in accordance with subdivision (b), the claims administrator may withhold 15% from each payment of permanent partial disability remaining to be paid from the date the notice of offer was served on the employee until there has been a final judicial determination of the date that the employee is permanent and stationary pursuant to Labor Code section 4062. Where there is a final judicial determination that the employee is permanent and stationary on a date later than the date relied on by the employer in making its offer of work, the employee shall be reimbursed any amount withheld up to the date a new notice of offer of work is served on the employee pursuant to subdivision (b). Where there is a final judicial determination that the employee is not permanent and stationary, the employee shall be

reimbursed any amount withheld up to the date of the determination. The claims administrator is not required to reimburse permanent partial disability benefit payments that have been withheld pursuant to this subdivision during any period for which the employee is entitled to temporary disability benefit payments.

Subdivision (d) of this section provides that if the employee's regular work, modified work, or alternative work that has been offered by the employer pursuant to paragraph (1) of subdivision (b) and has been accepted by the employee, is terminated prior to the end of the period for which permanent partial disability benefits are due, the amount of each remaining permanent partial disability payment from the date of the termination shall be paid in accordance with Labor Code section 4658 (d)(1), as though no decrease in payments had been imposed, and increased by 15 percent. An employee who voluntarily terminates his or her regular work, modified work, or alternative work shall not be eligible for the 15 percent increase in permanent partial disability payments pursuant to this subdivision.

Subdivision (e) of this section provides that nothing in this section shall prevent the parties from settling or agreeing to commute the permanent disability benefits to which an employee may be entitled. However, if the permanent disability benefits are commuted by a Workers' Compensation Administrative Law Judge or the Workers' Compensation Appeals Board pursuant to Labor Code section 5100, the commuted sum shall account for any adjustment that would have been required by this section if payment had been made pursuant to Labor Code section 4658.

### **3. Proposed Section 10003. Form [DWC AD 10003 Notice of Offer of Work.]**

This section is a three-page form entitled "DWC-AD 10003 Notice of Offer of Regular Work For Injuries Occurring on or after 1-1-05." This form shall be used when the employer or claims administrator makes an offer of regular work to the employee. The first page of the form is to be completed by the employer or claims administrator. The second page of the form is to be completed by the employee. The last page of the form is a proof of service.

### **4. Proposed Section 10004. Return to Work Program.**

This proposed section applies to injuries occurring on or after July 1, 2004, and provides definitions for the following key terms used in this section only: "Eligible Employer," and "Full-time employee."

This section also provides that the Return to Work Program is administered by the Administrative Direc-

tor for the purpose of promoting the employee's early and sustained return to work following a work-related injury or illness.

This section also provides that the Return to Work Program shall be funded by the Return to Work Fund which shall consist of all penalties collected pursuant to Labor Code section 5814.6 and transfers made to this fund by the Administrative Director from the Workers' Compensation Administrative Revolving Fund established pursuant to Labor Code section 62.5. The reimbursement offered to eligible employers as set forth in this section shall be available only to the extent funds are available.

This section also provides that an eligible employer shall be entitled to reimbursement through this program for expenses incurred to make workplace modifications to accommodate an employee's return to modified or alternative work, up to the following maximum amounts: (1) \$1,250 to accommodate each temporarily disabled employee, for expenses incurred in allowing such employee to perform modified or alternative work within physician-imposed temporary work restrictions; and (2) \$2,500 to accommodate each permanently disabled employee, for expenses incurred in returning such employee to sustained modified or alternative work within physician-imposed permanent work restrictions; however, if an employer who has received reimbursement for a temporarily disabled employee under paragraph (1) is also requesting reimbursement for the same employee for accommodation of permanent disability, the maximum available reimbursement is \$2,500. For the purpose of this subdivision, "sustained modified or alternative work" is work anticipated to last at least 12 months.

This section also provides that reimbursement shall be provided for any of the following expenses, provided they are specifically prescribed by a physician or are reasonably required by restrictions set forth in a medical report: modification to worksite, equipment, furniture, tools, or any other necessary costs reasonably required to accommodate the employee's restrictions.

This section also provides that an eligible employer seeking reimbursement pursuant to subdivision (d) shall submit a "Request for Reimbursement of Accommodation Expenses" (Form DWC AD 10005, section 10005) to the Division of Workers' Compensation Return to Work Program within ninety (90) calendar days from the date of the expenditure for which the employer is seeking reimbursement. As a condition to reimbursement, the expenditure shall not have been paid or covered by the employer's insurer or any source of funding other than the employer. The

filing date may be extended upon a showing of good cause for such extension. The employer shall attach to its request copies of all pertinent medical reports that contain the work restrictions being accommodated, any other documentation supporting the request, and all receipts for accommodation expenses. Requests should be sent to the mailing address for the Division of Workers' Compensation Return to Work Program that is listed in the web site of the Division of Workers' Compensation, at:

[http://www.dir.ca.gov/dwc/dwc\\_home\\_page.htm](http://www.dir.ca.gov/dwc/dwc_home_page.htm)

This section also provides that the Administrative Director or his or her designee shall review each "Request for Reimbursement of Accommodation Expenses," and within sixty (60) business days of receipt shall provide the employer with notice of one of the following: (1) that the request has been approved, together with a check for the reimbursement allowed, and an explanation of the allowance, if less than the maximum amounts set forth in subdivision (d); or (2) that the request has been denied, with an explanation of the basis for denial; or (3) that the request is deficient or incomplete and indicating what clarification or additional information is necessary.

This section also provides that in the event there are insufficient funds in the Return to Work Fund to fully reimburse an employer or employers for workplace modification expenses as required by this section, the Administrative Director shall utilize the following priority list in establishing the amount of reimbursement or whether reimbursement is allowed, in order of decreasing priority as follows: (1) employers who have not previously received any reimbursement under this program; (2) employers who have not previously received any reimbursement under this program for the employee who is the subject of the request; (3) employers who are seeking reimbursement for accommodation required in returning a permanently disabled employee to sustained modified or alternative work; and (4) employers who are requesting reimbursement for accommodation required by a temporarily disabled employee.

This section also provides that an eligible employer may appeal the Administrative Director's notice under subdivision (i) by filing a Declaration of Readiness to Proceed with the local district office of the Workers' Compensation Appeals Board within twenty calendar days of the issuance of the notice, together with a petition entitled "Appeal of Administrative Director's Reimbursement Allowance," setting forth the basis of the appeal. A copy of the Declaration of Readiness to Proceed and the petition shall be concurrently served on the Administrative Director.

## 5. Proposed Section 10005. Form [DWC AD 10005 Request for Reimbursement of Accommodation Expenses.]

This proposed section is a form entitled "Request for Reimbursement of Accommodation Expenses For injuries on or after July 1, 2004, Form DWC AD 10005." This form is to be completed by the employer or employer's representative in order to request reimbursement of accommodation expenses.

### DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Administrative Director has made the following initial determinations:

- Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- Adoption of these regulations will not: (1) create or eliminate jobs within the State of California, (2) create new businesses or eliminate existing businesses within the State of California, or (3) affect the expansion of businesses currently doing business in California.
- Effect on Housing Costs: None.
- The Division of Workers' Compensation is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### EFFECT ON SMALL BUSINESS

The Administrative Director has determined that the proposed regulations will not affect small business. All small businesses, including self-insured employers and third party claims administrators, are required by law to provide workers' compensation benefits to injured workers and to comply with workers' compensation regulations. Here, the requirement that an employer must serve the employee with a notice of offer of regular work, modified work or alternative work within 60 days from the date that the injured worker's condition becomes permanent and stationary or be required to increase each payment of permanent partial disability by 15 percent, does not apply to small businesses because this provision only applies to employers with 50 or more employees. With respect to the Return to Work Program contained in the regulations, if a business which employs 50 or fewer full-time employees incurs expenses in order to make workplace modifications to accommodate an employee's return to modified or alternative work, that employer may be reimbursed by the Return to Work Fund.

### FISCAL IMPACTS

- Costs or savings to state agencies or costs/savings in federal funding to the State: The Division of Workers' Compensation will incur costs associated with the reimbursement program. The Division submitted a budget change proposal for the fiscal year 2006–2007 to authorize the funding for the costs. State agencies who are employers who comply with the requirement that an employer must serve the employee with a notice of offer of regular work, modified work or alternative work within 60 days from the date that the injured worker's condition becomes permanent and stationary would not be required to increase each payment of permanent partial disability by 15 percent and would be eligible for a 15 percent decrease in remaining permanent partial disability benefit payments.
- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district.
- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None. The proposed regulations do apply to a local agency or school district in its capacity as an employer required to provide workers' compensation benefits to injured workers.
- Other nondiscretionary costs/savings imposed upon local agencies: None.

### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Administrative Director must determine that no reasonable alternative considered or that has otherwise been identified and brought to the Administrative Director's attention would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

The Administrative Director invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

### PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

Pursuant to Government Code section 11346.45, the text of the draft proposed regulations was made available for pre-regulatory public comment through the Division's Internet message board (the DWC Forums). Additionally, the proposed regulations were made available for discussion and comment to an

advisory group made up of representatives from the workers' compensation community.

### AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, RULEMAKING FILE AND DOCUMENTS SUPPORTING THE RULEMAKING FILE / INTERNET ACCESS

An Initial Statement of Reasons and the text of the proposed regulations in plain English have been prepared and are available from the contact person named in this notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below.

As of the date of this notice, the rulemaking file consists of the notice, the initial statement of reasons, the proposed text of the regulations, pre-rulemaking comments, and the Form 399. Also included are studies and documents relied upon in drafting the proposed regulations.

In addition, the Notice, Initial Statement of Reasons, and proposed text of regulations may be accessed and downloaded from the Division's website at [www.dir.ca.gov](http://www.dir.ca.gov). To access them, click on the "Proposed Regulations—Rulemaking" link and scroll to "Division of Workers' Compensation regulations" and then scroll down the list of rulemaking proceedings to find the current Return to Work rulemaking link.

Any interested person may inspect a copy or direct questions about the proposed regulations and any supplemental information contained in the rulemaking file. The rulemaking file will be available for inspection at the Department of Industrial Relations, Division of Workers' Compensation, 1515 Clay Street, Oakland, California, between 9:00 a.m. and 4:30 p.m., Monday through Friday. Copies of the proposed regulations, initial statement of reasons and any information contained in the rulemaking file may be requested in writing to the contact person.

### CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be requested in writing at the same address. The contact person is:

Maureen Gray  
Regulations Coordinator  
Department of Industrial Relations  
Division of Workers' Compensation  
Post Office Box 420603  
San Francisco, CA 94142  
E-mail: [mgray@dir.ca.gov](mailto:mgray@dir.ca.gov)

The telephone number of the contact person is (510) 286-7100.

**BACKUP CONTACT/PERSON CONTACT  
PERSON FOR SUBSTANTIVE QUESTIONS**

In the event the contact person is unavailable, or to obtain responses to questions regarding the substance of the proposed regulations, inquiries should be directed to the following backup contact persons:

Linda Pancho (lpancho@dir.ca.gov)  
Division of Workers' Compensation  
Post Office Box 420603  
San Francisco, CA 94142

The telephone number of the backup contact persons is (510) 286-7100.

**AVAILABILITY OF CHANGES FOLLOWING  
PUBLIC HEARING**

If the Administrative Director makes changes to the proposed regulations as a result of the public hearing and public comment received, the modified text with changes clearly indicated will be made available for public comment for at least 15 days prior to the date on which the regulations are adopted.

**AVAILABILITY OF THE FINAL  
STATEMENT OF REASONS**

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website: [www.dir.ca.gov](http://www.dir.ca.gov)

**AUTOMATIC MAILING**

A copy of this Notice, the Initial Statement of Reasons, and the text of the regulations, will automatically be sent to those interested persons on the Administrative Director's mailing list.

If adopted, the regulations as amended will appear in Title 8, California Code of Regulations, commencing with section 10001.

**TITLE 8. OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

**NOTICE OF PUBLIC MEETING/PUBLIC  
HEARING/BUSINESS MEETING OF THE  
OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD AND NOTICE OF  
PROPOSED CHANGES TO TITLE 8 OF THE  
CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has

set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

**PUBLIC MEETING**

On **December 15, 2005**, at 10:00 a.m. in the Council Chambers, Second Floor of the Historic City Hall, 915 I Street, Sacramento, CA 95814.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

**PUBLIC HEARING**

On **December 15, 2005**, following the Public Meeting in the Council Chambers, Second Floor of the Historic City Hall, 915 I Street, Sacramento, CA 95814.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

**BUSINESS MEETING**

On **December 15, 2005**, following the Public Hearing in the Council Chambers, Second Floor of the Historic City Hall, 915 I Street, Sacramento, CA 95814.

At the Business Meeting, the Board will conduct its monthly business.

The meeting facilities and restrooms are accessible to the physically disabled. Requests for accommodations for the disabled (assistive listening device, sign language interpreters, etc.) should be made to the Board office no later than 10 working days prior to the day of the meeting. If Paratransit services are needed, please contact the Paratransit office nearest you.

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **December 15, 2005**.

1. TITLE 8: CONSTRUCTION SAFETY  
ORDERS  
Chapter 4, Subchapter 4, Article 29  
Section 1710(f)  
**Column Stability for Structural  
Steel Erection**

A description of the proposed changes are as follows:

1. TITLE 8: CONSTRUCTION SAFETY ORDERS  
Chapter 4, Subchapter 4, Article 29  
Section 1710(f)  
**Column Stability for Structural Steel Erection**

#### INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking action is initiated as a result of a Division of Occupational Safety and Health (Division) memorandum dated November 15, 2004. Construction Safety Orders (CSO), Section 1710 pertains to structural steel erection activities, and subsection 1710(f)(1)(A) requires that all columns for steel erection structures be anchored by a minimum of 4 anchor rods (anchor bolts). The purpose of this standard is to ensure the stability of columns for the safety of ironworkers during structural steel erection work.

Engineering calculations demonstrate that columns can be braced to provide equal or superior stability to that currently required in subsection 1710(f)(1)(B) for steel columns anchored by 4 anchor bolts. The proposal would provide an exception to subsection 1710(f)(1)(A) to permit the guying or bracing of columns when such guying or bracing provides strength and stability required of steel columns anchored by a minimum of 4 anchor bolts.

##### Section 1710. Structural Steel Erection.

Section 1710 sets forth the requirements to protect employees from the hazards associated with steel erection activities.

##### Subsection 1710(f)(1)(A)

Subsection 1710(f) provides general requirements for erection stability. Subsection 1710(f)(1)(A) requires that columns shall be anchored by a minimum of 4 anchor bolts in order to provide stability to the column during erection. Subsection 1710(f)(1)(B) provides that each column anchor rod (anchor bolt) assembly, including the column-to-base plate weld and the column foundation, shall be designed to resist a minimum eccentric gravity load of 300 pounds located 18 inches from the extreme outer face of the column in each direction at the top of the column shaft. A very small minority of steel erection structures utilize steel tube columns that by design do not utilize anchor bolts in the erection process. Instead of anchor bolts, these columns are temporarily braced until four columns are erected with all beams in place to provide stability to the structural steel frame.

An "exception" is proposed to subsection 1710(f)(1)(A) that would permit the guying or bracing of columns when such guying or bracing provides

strength and stability required by subsection 1710(f)(1)(B). The Division stated that the proposed amendment is not only for steel tube columns, but is also necessary for some small columns for steel erection structures that are not adaptable to the installation of 4 anchor bolts. The effect of adding this exception would be to permit an alternative method for ensuring the stability of certain structural steel columns during the erection of steel frame structures.

#### COST ESTIMATES OF PROPOSED ACTION

##### Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

##### Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

##### Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant statewide, adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposal will provide an option for the employer to use an alternative method to secure and stabilize columns. The Board has determined that the proposed amendments would not adversely affect businesses because the proposal provides an alternative or option to the existing requirements for anchoring steel columns.

##### Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

##### Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

##### Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

##### Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

#### DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment

will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this standard does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

The proposed standard does not impose unique requirements on local governments. All state, local, and private employers will be required to comply with the prescribed standard.

#### EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments would not affect small businesses as the proposal provides an alternative or option to the existing requirements for anchoring steel columns.

#### ASSESSMENT

The adoption of the proposed amendments to this standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350,

Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than December 9, 2005. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on December 15, 2005, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at [oshsb@hq.dir.ca.gov](mailto:oshsb@hq.dir.ca.gov). The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Keith Umemoto, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

## TITLE 14: BOARD OF FORESTRY AND FIRE PROTECTION

### NOTICE OF PROPOSED RULEMAKING

#### Defensible Space, 2005

The Board of Forestry and Fire Protection (Board) proposes to adopt the regulations of Title 14 of the California Code of Regulations (14 CCR) described below after considering all comments, objections, and recommendations regarding the proposed action.

**Adopt: Division 1.5, Chapter 7 Fire Protection, Subchapter 3., Article 3.  
Defensible Space Regulations. § 1299**

#### PUBLIC HEARING

The Board will hold a public hearing starting at 8:00 A.M., on Tuesday, December 13, 2005, at the Resources Building Auditorium, 1st Floor, 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

#### WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M., on Monday, December 12, 2005. The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection  
Attn: Christopher Zimny  
Regulations Coordinator  
P.O. Box 944246  
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection  
Room 1506-14  
1416 9th Street  
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

#### AUTHORITY AND REFERENCE

Public Resources Code (PRC) 4551 and 4554.5 authorizes the Board to adopt such rules and regulations as it determines are reasonably necessary to enable it to implement, interpret or make specific sections 4512, 4513 and 4561 of the Public Resources Code. Reference: Public Resources Code sections 4513, 4551.5, 4561 and 21080.5.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California State Board of Forestry and Fire Protection (Board) is promulgating a regulation necessary to implement a legislative amendment to Public Resource Code (PRC) 4291(b) authorized under Senate Bill (SB) 1369 of 2004. This legislation, among other things, requires persons in State Responsibility Area (SRA) to maintain around and adjacent to a building or structure additional fire protection or a firebreak by removing all brush, flammable vegetation, or combustible growth that is located from 30 to 100 feet from the building or structure or to the property line. The proposed regulation is a "performance standard regulation". It establishes a broad and flexible firebreak clearing objective consistent with the statute. The regulation also includes a guideline reference document, titled "General Guidelines to Implement Performance Based Defensible Space Regulation under PRC 4291". The guideline document describes criteria for conformance with proposed regulation and existing statute. This document is incorporated by reference pursuant to Title 1, California Code of Regulations (CCR), Regulation General Provisions, Section 20.

#### SPECIFIC PURPOSE OF THE REGULATION

The purpose of this regulation is to provide guidance for implementing the defensible space criteria of PRC 4291(a) and (b) and minimize the spread of fire within a 100 foot zone around a building or structure. Specific proposes and necessities of each subsection of the regulation are described below:

- Subsection 1299(a) identifies the persons and locations that must comply with the regulation. This includes any person that owns, leases, controls,

operates, or maintains a building or structure in, upon, or adjoining any mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or any land that is covered with flammable material, and is within State Responsibility Area.

- Subsection 1299(a)(1) states the requirements for clearing within 30 feet of the structure are part of the regulation to ensure comprehensive application of all requirements of PRC 4291.
- Subsection 1299(a)(2) is the “performance standard” that must be achieved for the area within 30 to 100 feet from each building or structure. Establishing this standard is the primary purpose of the entire regulation, pursuant to changes in PRC 4291(b). The standard generally requires disrupting the vertical and/or horizontal continuity of flammable and combustible vegetation with the goal of reducing fire intensity, inhibiting fire in the crowns of trees, reducing the rate of fire spread, and providing a safer environment for firefighters to suppress wildfire.
- Subsection 1299(b) and (c) provides the fire inspection official the authority to direct removal or modification of any specific fire hazard and work with home owners to approve alternative hazard reduction or fire prevention practices that have the same effect as those stated in the referenced guideline under 1299(d) and which are consistent with PRC 4291. These subsections add flexibility for the regulated public while ensuring that fire officials retain final authority on determining acceptable implementation of the performance standard regulation.
- Subsection 1299(d) references a “guidance” document that suggests ways to meet the 14 CCR subsection 1299(a)(2) 30 feet to 100 feet clearing requirements. The guideline reference document is titled “General Guidelines to Implement Performance Based Defensible Space Regulation under PRC 4291”. It describes criteria that will result in conformance with proposed regulation and existing statute. This document is incorporated by reference pursuant to Title 1 CCR, Regulation General Provisions, Section 20. This guidance document is intended to instruct persons and fire officials on acceptable ways to obtain compliance with PRC 4291 and this proposed regulation.

The guideline document includes several sections. The sections include an introduction on the purpose of the guideline (Section A.); Definitions (Section B.); and fuel treatment guidelines that help describe effective hazard reduction treatments (Section C.).

## DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None
- Costs or savings to any State agency: The regulation will not result in a fiscal impact to the State. While the regulation will impose on the California Department Forestry and Fire Protection (CDF) more intensive inspection requirements, fire engine staffing increases for southern California in this year’s budget will help offset inspection costs. Additionally, CDF hopes to offset inspection costs by developing an education outreach program to assist in homeowner compliance, further reducing the need for intensive inspections.
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC 17500: None
- Other non-discretionary cost or savings imposed upon local agencies: None
- Cost or savings in federal funding to the State: None
- The Board has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Cost impacts on representative private persons or businesses: The Board estimates there is a cost impact on representative private persons or businesses from implementation of this regulation in the short term due to vegetation clearing around structures. These costs will be incurred by homeowners and business with structures in SRA. These initial costs will be offset or result in an unspecified economic benefit to the regulated public due to reduced losses to property and life resulting from implementation of the fire hazard reduction around homes, and have a net zero-dollar economic impact.
- Significant effect on housing costs: None
- Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- Effect on small business: The Board has determined that the proposed amendments will not have an adverse affect on small business.
- The proposed rules do not conflict with, or duplicate Federal regulations.

## BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code 11346.5(a)(13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection  
Attn: Christopher Zimny  
Regulations Coordinator  
P.O. Box 944246  
Sacramento, CA 94244-2460  
Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone (916) 653-5602.

## AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its

office at the above address. All of the above referenced information is also available on the CDF web site at:

[http://www.fire.ca.gov/BOF/board/board\\_proposed\\_rule\\_packages.html](http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html)

## AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

## TITLE 16. BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

NOTICE IS HEREBY GIVEN that the **Board of Vocational Nursing and Psychiatric Technicians** (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the **Department of Water Resources, 1416 9th Street, Auditorium, Sacramento, CA 95814, (916) 653-5791, at 10:00 A.M., on Tuesday, December 20, 2005.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 P.M. on Monday, December 19, 2005, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or

grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by section 2854 of the Business and Professions (B&P) Code; and 6253.4 of the Government Code; and to implement, interpret or make specific sections 2878.1, 2892.6 and 2895 of the B&P Code, the Board is considering changes to Division 25 of Title 16 of the California Code of Regulations (CCR) as follows:

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Pursuant to B&P Code, section 2854, the Board may adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry out the provisions of these chapters. Additionally, B&P Code, Sections 2892.6 and 2895 specify the current fee assessments and the statutory fee ranges for the Vocational Nursing Program.

#### History of the Board's Fee Regulations

When the Board of Vocational Nursing was created in 1951, the Legislature established a fixed fee schedule *in the Board's enabling laws*. Specific fees were set forth in Section 2895 of the Business and Professions Code. The Board had no discretion to alter those fees.

In 1952, the Legislature amended Section 2895 and gave the Board the authority to fix fees within dollar amount ranges set out in the statute. Accordingly, the Board promulgated a fee schedule through its regulations. This arrangement continued until January 1, 1991 and January 1, 2000. During those periods, Sections 2892.6 and 2895 were amended to again establish a *statutory* fee schedule. The language requiring the Board to fix its fees in regulation was eliminated. Instead, the Legislature established, by statute, *initial minimum* fees. On January 1, 2000, the Legislature also established statutory fee ranges which gave the Board the discretion to later adjust those fees upward as long as they did not exceed the statutory maximums.

The 1991 and 2000 statutory changes had the effect of superseding or repealing the Board's existing fee regulations which were only valid through December 31, 1990. For example, in January 1991, Section 2895 added a number of fee categories that were not then included in the Board's existing regulations relative to duplicate licenses, endorsement fees and continuing education course providers. The fees for

these three fee categories were established in statute. Consequently, those additional statutory fees have been assessed by the Board since January 1, 1991 even though they do not appear in the Board's superseded fee regulations.

*Therefore, when assessing the fee changes being proposed by the Board, one has to compare them with the fees listed in Section 2892.6 and 2895 rather than the fees listed in the Board's regulations.*

#### Vocational Nursing Regulations

Amend Sections 2537 & 2537.1 relative to fees and provider fees. The existing regulations cite fee amounts that became obsolete effective December 31, 1990. Since that time, changes to the fee amounts were established in statute on January 1, 1991 and again on January 1, 2000. Consequently, the purpose of this regulatory proposal is to:

- A. Make specific in regulation the current statutory fee assessments delineated in B&P Code, Section 2892.6 and 2895; and
- B. Amend the following revenue categories:
  - Initial License Fees—From \$100 to \$120
  - Biennial License Renewal Fees—From \$100 to \$120
  - Delinquent Renewal Fees—From \$50 to \$60

All of the other fee assessment amounts currently established in statute will remain the same in this regulatory proposal. This regulatory proposal merely clarifies in regulation what is already established by statute.

The fee change is needed to ensure the fiscal solvency of the Vocational Nursing Program and to comply with the budget implementation requirements specified by B&P Code, Section 2878.1 relative to mandatory reporting.

#### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Board has determined that this proposed regulatory action will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Board has made an initial determination that this proposed regulatory action will not have a significant cost impact on a representative private person or business to incur reasonable compliance with the proposed action.

Effect on Housing Costs: None

#### EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The proposed regulations do not alter staffing or equipment needs in any small business.

#### CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective and less burdensome to affected private persons than the proposal described in this Notice.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2535 Capitol Oaks Drive, Suite 205, Sacramento, California 95833.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

#### CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Marina Okimoto  
Assistant Executive Officer  
Address: 2535 Capitol Oaks Drive, Suite 205  
Sacramento, CA 95833  
Telephone No.: (916) 263-7845  
Fax No.: (916) 263-7859  
E-Mail Address: [www.bvnpt.ca.gov](http://www.bvnpt.ca.gov)

The backup contact person is:

Name: Angela Hole  
Administrative Assistant  
Address: 2535 Capitol Oaks Drive, Suite 205  
Sacramento, CA 95833  
Telephone No.: (916) 263-7845  
Fax No.: (916) 263-7859  
E-Mail Address: [Angela\\_Hole@dca.ca.gov](mailto:Angela_Hole@dca.ca.gov)

#### WEBSITE ACCESS

Materials regarding this proposal can be found at [www.bvnpt.ca.gov](http://www.bvnpt.ca.gov).

## TITLE 16. CONTRACTORS STATE LICENSE BOARD

### NOTICE OF PROPOSED CHANGES IN THE REGULATIONS

NOTICE IS HEREBY GIVEN that the Contractors State License Board (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Contractors State License Board, 9821 Business Park Drive, Sacramento, California 95827, at 10:00 a.m. on December 13, 2005. Written comments must be received by the Board at its office at the above address not later than December 12, 2005 at 5:00 p.m. or at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposal if such modification is sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in the Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

#### AUTHORITY AND REFERENCE CITATIONS

Pursuant to the authority vested by Sections 481, 482, 7008, and 7073 of the Business and Professions (B&P) Code, and to implement, interpret, or make specific Sections 480, 481, 482, 486, 490, 496, 7066,

7069, 7073, 7090, 7123, and 7124 of said Code, the Contractors State License Board is considering changes to Division 8 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/PLAIN ENGLISH  
POLICY STATEMENT OVERVIEW

**Amend Section 868—Criteria to Aid in Determining if Acts or Crimes Are Substantially Related to Contracting Business.**

Section 481 of the B&P Code mandates that the Board develop criteria to aid it, when considering the denial, suspension, or revocation of a license, in determining whether a crime or act is substantially related to the qualifications, functions, or duties of the contracting business. Section 7008 authorizes the Board to adopt rules and regulations, in accordance with the Administrative Procedures Act, that are reasonably necessary to carry out the provisions of the chapter of the B&P Code. Section 480 authorizes the Board to deny a license based on grounds that the applicant has committed a crime or act that is substantially related to the contracting business. Section 490 authorizes the Board to suspend or revoke a license based on grounds that the licensee has committed a crime or act that is substantially related to the contracting business. Section 7066 mandates that applicants for licensure shall submit an application on a form prescribed by the registrar and accompanied by the appropriate fee. Section 7069 mandates that applicants for licensure shall not have committed acts or crimes that are grounds for denial of a license under Section 480 and authorizes the Board to collect and use fingerprints from applicants to obtain criminal history information on the applicant. Section 7073 mandates that when a license is denied CSLB shall inform the applicant of the earliest date on which he or she may reapply for a license, which shall be no later than five years after the effective date of the denial decision or service of notice. Section 7073 further mandates that CSLB develop criteria, similar to the criteria for evaluating rehabilitation, for establishing the earliest date on which an applicant may reapply for a license. Section 7090 authorizes the registrar to investigate the actions of any applicant or licensee and may cite or take appropriate disciplinary action against the applicant or licensee as a result of such investigation. Section 7123 mandates that conviction of a crime that is substantially related to the qualifications, functions, and duties of a contractor constitutes a cause for disciplinary action. Section 7124 defines what constitutes a conviction and when the Board may deny, suspend, or revoke a license on the grounds of a conviction.

Existing regulations set forth criteria for determining if a crime or act is substantially related to the

qualifications, functions, or duties of a contractor licensee, in relation to the denial, suspension, or revocation of a license pursuant to Division 1.5 of the Code. The existing language contains some examples of substantially-related crimes and acts.

This proposal would amend the regulations in order to:

- Update the examples by eliminating the specific examples and adding broader examples with categories or types of crimes and acts that demonstrate a disregard for the health, safety, or welfare of the public, including crimes or acts that involve dishonesty, fraud, or deceit with the intent to substantially benefit or cause harm and crimes or acts that involve physical violence against persons.

**Amend Section 869—Criteria for Rehabilitation.**

Section 482 of the B&P Code mandates that the Board develop criteria to evaluate the rehabilitation of a person when considering the denial of a license pursuant to Section 480 or the suspension or revocation of a license pursuant to Section 490. Section 496 authorizes the Board to deny, suspend, or revoke a license on the grounds of violation of Section 123. See above for the provisions of B&P Code Sections 480, 490, 7008, 7066, 7069, 7073, 7123, and 7124.

Existing regulations set forth criteria for evaluating the rehabilitation and present eligibility for licensure of an applicant who was denied a license pursuant to B&P Code Section 480 and for a licensee whose license was suspended or revoked on the grounds that the licensee has been convicted of a crime.

This proposal would amend the regulations in order to:

- Merge subsections (a) and (b) relating to applicants and licensees and renumber subsection (c) to (b).
- Refine the criteria for rehabilitation, placing emphasis on the amount of time that has passed from the time of release from incarceration for a crime, or completion of probation if no incarceration was imposed, and from the time of commission of the substantially-related act considered as grounds for denial, suspension, or revocation.

**Add Section 869.9—Criteria to Aid in Determining Earliest Date a Denied Applicant May Reapply for Licensure.**

Section 486 of the B&P Code mandates that the earliest date for reapplication shall be one year after the effective date of the decision or service of notice, unless otherwise prescribed by the Board or by another statute. See above for the provisions of B&P Code Sections 480, 482, 496, 7008, 7066, 7069, 7073, and 7124.

There is no existing CSLB regulation that sets forth criteria for establishing the earliest date on which an applicant may reapply for a license after having been denied a license.

This proposal would adopt the regulations in order to:

- Add criteria for establishing the earliest date on which an applicant may reapply for a license after having been denied a license.
- Add a provision stating that nothing in the chapter shall preclude the Board from denying the license of an applicant who was previously denied a license and who is eligible for reapplication in accordance with the section.

#### LOCAL MANDATE

The proposed regulatory action does not impose a mandate on local agencies or school districts.

#### FISCAL IMPACT ON PUBLIC AGENCIES/STD 399

The proposed regulatory action will not result in costs or savings to any state agency, costs or savings to any local agency or school district that is required to be reimbursed under Part 7 of Division 4 (commencing with Section 17500 of the Government Code), other nondiscretionary costs or savings on local agencies, or costs or savings in federal funding to the state.

#### COST IMPACT ON AFFECTED PRIVATE PERSONS

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### HOUSING COSTS

The proposed regulatory action will not have a significant effect on housing costs.

#### EFFECT ON SMALL BUSINESS

The proposed regulatory action will not affect small businesses, because it affects only persons who had a license denied, suspended, or revoked by the Board, as well as persons who were convicted of a crime or act that may be substantially related to the contracting business and who may be subject to having a license denied, suspended, or revoked.

#### CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

Contractors State License Board  
9821 Business Park Drive  
Sacramento, CA 95827

Attn: Michael Brown  
(916) 255-3939  
(916) 255-1395 (FAX)  
mbrown@dca.cslb.ca.gov

The backup contact person is:

Betsy Figueira  
(916) 255-2798  
(916) 255-1395 (FAX)  
bfigueira@dca.cslb.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Michael Brown at (916) 255-3939.

#### COMMENT PERIOD

Written comments must be received by the Board at the Contractors State License Board, 9821 Business Park Drive, Sacramento, CA 95827 not later than December 12, 2005 at 5:00 p.m. or at the hearing to be held in the Board office at 10:00 a.m. on December 13, 2005.

#### AVAILABILITY OF MODIFICATIONS

With the exception of technical or grammatical changes, the full text of any modified proposal will be available from the person designated in this notice as contact person for 15 days prior to its adoption and will be mailed to those persons who submit written or oral testimony related to this proposed regulatory action or who have requested notification of any changes to the proposal.

#### REFERENCE TO TEXT AND INITIAL STATEMENT OF REASONS

The Board has prepared a statement of the reasons for the proposed action, which is available to the public upon request. The express terms of the proposed action and all information upon which the proposal is based are available upon request.

#### BUSINESS IMPACT

The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because it affects only persons who had a license denied, suspended, or revoked by the Board, as well as persons who were convicted of a crime or act that may be substantially related to the contracting business and who may be subject to having a license denied, suspended, or revoked.

#### IMPACT ON JOBS/NEW BUSINESSES

The proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing businesses within the State of

California, or the expansion of businesses currently doing business within the State of California, because it affects only persons who had a license denied, suspended, or revoked by the Board, as well as persons who were convicted of a crime or act that may be substantially related to the contracting business and who may be subject to having a license denied, suspended, or revoked.

#### **PUBLIC HEARING**

A public hearing will be held at the Contractors State License Board, 9821 Business Park Drive, Sacramento, California 95827, at 10:00 a.m. on December 13, 2005.

#### **FEDERAL MANDATE**

The proposed regulatory action is not mandated by federal law or is not identical to any previously adopted or amended federal regulation.

#### **CONSIDERATION OF ALTERNATIVES**

The Board must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would be either more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome on affected private persons than the proposed regulatory action. The actual determination must be part of both the Initial and Final Statement of Reasons.

#### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Interested parties may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the contact person named above.

#### **WEBSITE ACCESS**

Materials regarding the proposed regulatory action can be found at [www.cslb.ca.gov](http://www.cslb.ca.gov).

### **GENERAL PUBLIC INTEREST**

#### **OFFICE OF ADMINISTRATIVE LAW**

##### **CORRECTION TO "NOTICE OF PUBLIC HEARING AND AMENDMENT TO PREVIOUSLY PUBLISHED NOTICE"**

The Office of Administrative Law published a "Notice of Public Hearing and Amendment to Previously Published Notice" on October 21, 2005 in the California Regulatory Notice Register, 2005, No. 42-Z, p. 1528.

The notice contained an incorrect date for the hearing. The correct date of the hearing is Monday, November 7, 2005. The hearing will begin at 10:00 a.m. in Room 113 of the State Capitol, Sacramento, California.

Please direct any inquiries to William Gausewitz at (916) 323-6221 ([wgausewitz@oal.ca.gov](mailto:wgausewitz@oal.ca.gov)) or to Melvin Fong at (916) 324-7952 ([mfong@oal.ca.gov](mailto:mfong@oal.ca.gov)).

#### **OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**

##### **SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65)**

**SEE PROPOSITION 65 (Page 1563)**

### **DECISION NOT TO PROCEED**

#### **AIR RESOURCES BOARD**

##### **NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF A CLEAN ON-ROAD SCHOOL BUS REGULATION FOR SCHOOL BUSES OPERATING IN THE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

By notice dated July 19, 2005, and published in the July 29, 2005, California Notice Register, Register 2005, No. 30-Z, the Air Resources Board (the Board or ARB) announced it would conduct a public hearing to consider adoption of a regulation for school buses operating in the South Coast Air Quality Management District (SCAQMD or District).

**PLEASE BE ADVISED** that pursuant to Government Code section 11347, publication of this Notice of Decision Not to Proceed hereby terminates the rulemaking action originally noticed on July 29, 2005, in the California Regulatory Notice Register.

#### **AIR RESOURCES BOARD**

##### **NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE DIESEL PARTICULATE CONTROL MEASURE FOR ON-ROAD HEAVY-DUTY RESIDENTIAL AND COMMERCIAL SOLID WASTE COLLECTION VEHICLES: FLEET RULE FOR THE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

By notice dated July 19, 2005, and published in the July 29, 2005, California Notice Register, Register 2005, No. 30-Z, the Air Resources Board (the Board or

ARB) announced it would conduct a public hearing to consider amendments to the Diesel Particulate Control Measure for On-Road Heavy-Duty Residential and Commercial Solid Waste Collection Vehicles regulations.

**PLEASE BE ADVISED** that pursuant to Government Code section 11347, publication of this Notice of Decision Not to Proceed hereby terminates the rulemaking action originally noticed on July 29, 2005, in the California Regulatory Notice Register.

## PROPOSITION 65

### STATE OF CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

#### SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65)

#### NOTICE OF ADDITIONAL MODIFICATIONS TO TEXT OF PROPOSED REGULATION

TITLE 22, CALIFORNIA CODE OF  
REGULATIONS, SECTION 12900  
OAL NOTICE FILE No. Z-05-0208-03

As required by Government Code section 11346.8(c), and Title 1, Section 44 of the California Code of Regulations, the Office of Environmental Health Hazard Assessment (OEHHA) is providing notice of additional changes made to the proposed regulation: Title 22, California Code of Regulations, Section 12900. This proposed regulation was originally the subject of a Notice of Proposed Rulemaking issued on February 18, 2005 and published in the California Regulatory Notice Register (Register 2005, No. 7-Z). A public hearing on this regulatory proposal was held on April 4, 2005. Written and oral testimony was accepted at the hearing. In addition, written comments were received during two separate 45-day public comment periods, the most recent comment period closed on August 22, 2005. OEHHA has reviewed the comments it received regarding the amendments to the regulatory proposal and is once again proposing to revise the proposed regulation. A summary of the comments received during the second 45-day comment period, along with OEHHA's responses to those comments is available on the OEHHA website at [www.oehha.ca.gov](http://www.oehha.ca.gov) or may be requested from the Proposition 65 Implementation Office at (916) 445-6900.

A copy of the text of the most recently amended proposed regulation is attached. Deletions are designated in double strikeout, and additions are designated in highlight in the proposed text. A clear copy of the most recent amended text is also attached for ease of readability. OEHHA will accept written comments on the amended proposed regulation between October 28, 2005 and November 14, 2005. All written comments must be submitted to OEHHA by mail, fax, courier, e-mail or hand-delivery, no later than 5:00 p.m. on **November 14, 2005**, and addressed to:

Ms. Cynthia Oshita  
Office of Environmental Health Hazard Assessment  
Mailing address: P.O. Box 4010  
Sacramento, California 95812-4010  
Street address: 1001 I Street, 19th Floor  
Sacramento, California 95814  
Or via e-mail to [coshita@oehha.ca.gov](mailto:coshita@oehha.ca.gov)  
Fax No.: (916) 323-8803

Inquiries concerning the action described in this notice may be directed to Cynthia Oshita, in writing at the address given above, or by telephone at (916) 445-6900.

#### AMENDED PROPOSED REGULATORY TEXT

#### TITLE 22. SOCIAL SECURITY DIVISION 2. DEPARTMENT OF SOCIAL SERVICES—DEPARTMENT OF HEALTH SERVICES PART 2. HEALTH AND WELFARE AGENCY—DEPARTMENT OF HEALTH SERVICES REGULATIONS SUBDIVISION 1. HEALTH AND WELFARE AGENCY CHAPTER 3. SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 ARTICLE 9. MISCELLANEOUS, 22 CCR 12900

#### Section 12900 Use of Specified Methods of Detection and Analysis as an Affirmative Defense to an Enforcement Action

- (a) For purposes of Section 25249.5 of the Act, no knowing discharge or release, and for purposes of Section 25249.6 no knowing and intentional exposure occurs if a person in the course of doing business, otherwise responsible for an alleged release, discharge or exposure can show all of the following:
  1. That he or she has properly applied a method of detection and analysis as defined in subsection (g) below for the chemical in question at any time within the year prior to the service or filing of a notice or complaint concerning an

- alleged discharge, release or exposure to the chemical in question;
2. That such method of detection and analysis was applied to the same matrix as defined in subsection (g) below, in which the discharge, release or exposure is alleged to have occurred or to be occurring;
  3. That the method of detection and analysis was conducted by a laboratory certified by the State of California or accredited by the State of California, a federal agency, the National Environmental Laboratory Accreditation Program or similar nationally recognized accrediting organization to perform the particular method of detection and analysis in question; and
  4. That all the reported results show that the chemical in question was not detected.
- (b) The methods of detection and analysis that may be relied on for purposes of subsection (a) are those that are required or sanctioned by the federal Food and Drug Administration, the U.S. Environmental Protection Agency, the federal Occupational Safety and Health Administration, the National Institute of Occupational Safety and Health, the California Department of Health Services, the California Environmental Protection Agency and its constituent boards, departments or office; an Air District, a Regional Water Quality Control Board, a Certified Unified Program Agency, or other local enforcement agency in California with jurisdiction over the product or activity that is the cause of the alleged discharge, release or exposure.
- (c) Where more than one method of detection and analysis exists that meets the criteria specified in subsection (b), the person in the course of doing business who seeks to rely on the reported results of that method of detection and analysis pursuant to subsection (a), must either use a method of detection and analysis required by permit to be used for detecting or measuring the chemical in question in the relevant matrix; or the person must use the most sensitive method of detection and analysis that meets the requirements of subsection (b).
- (d) In any enforcement action for an alleged violation of Section 25249.5 or 25249.6 of the Act, the person asserting this section as an affirmative defense shall have the burden of proof as to all the facts that establish such defense including the burden of proving that all material protocols and procedures specified by the agency that requires or sanctions the method of detection and analysis applied, have been followed.
- (e) Except as provided in subsection (a) of this section, nothing in this section restricts a plaintiff from proving an alleged discharge, release or exposure by any admissible evidence or a defendant from proving the absence of an alleged discharge, release or exposure by any admissible evidence, except that an alleged discharge, release, or exposure may not be established solely by applying a scientific interference that a listed chemical is present in a particular matrix at one half the limit of detection for the applicable method of detection and analysis.
- (f) Nothing in this section requires any person in the course of doing business to conduct routine tests for discharges, releases or exposures to listed chemicals that may be subject to the provisions of the Act.
- (g) For the purposes of this section, the following definitions apply:
1. "Method of detection and analysis" means a specific analytical testing procedure appropriate for detecting a particular chemical in a particular matrix such as air, water, soil or food that is applied for the purpose of detecting the chemical or measuring its concentration.
  2. "Matrix" means the component or substrate that contains the chemical in question.
  3. The phrase "required or sanctioned" means that an agency listed in subsection (b) has identified the method of detection and analysis in a permit (as defined below), regulation, guideline or other official action of the agency that specifies or requires the use of that method of detection and analysis for purposes of detecting or measuring the concentration of the chemical in question in the relevant matrix.
  4. "Permit" means a document, license, registration, certificate, or other written means of authorization necessary for a business activity.

#### AUTHORITY

Note: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.11, Health and Safety Code.

## SUMMARY OF REGULATORY ACTIONS

### REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates

indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

**BOARD OF EDUCATION**

**Grant Program for Healthy Start**

This action amends regulations implementing the Healthy Start Support Services for Children Act (Education Code section 8800 et seq.).

Title 5  
California Code of Regulations  
AMEND: 11900, 11905, 11915, 11920, 11925, 11930, 11935  
Filed 10/19/05  
Effective 11/18/05  
Agency Contact: Debra Strain (916) 319-0641

**BOARD OF FORESTRY AND FIRE PROTECTION**

**Lake Tahoe Region Exemption Emergency Rule, 2005**

This regulatory action is a readoption of emergency file 05-0613-04 E which amended Title 14, section 1038 and related sections in order to exempt Timber Harvesting Plan filing requirements of the Forest Practice Act when harvesting live trees in a watercourse and lake protection zone (WLPZ) in the Lake Tahoe region for the purpose of reducing fire hazards. This emergency regulatory action is effective on 10/13/05 and will expire on 2/11/06. The Certificate of Compliance for this action is due no later than 2/10/06.

Title 14  
California Code of Regulations  
AMEND: 895, 895.1, 1038, 1038(f)  
Filed 10/13/05  
Effective 10/13/05  
Agency Contact:  
Christopher Zimny (916) 653-9418

**CALIFORNIA HORSE RACING BOARD**

**Application for License to Conduct a Horse Racing Meeting**

In this regulatory action, the California Horse Racing Board amends a regulation setting forth the application requirements for a license to conduct a horse racing meeting, including revisions to application forms.

Title 4  
California Code of Regulations  
AMEND: 1433  
Filed 10/12/05  
Effective 11/11/05  
Agency Contact: Harold Coburn (916) 263-6397

**CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD**

**Revisions to Waste Tire Hauler Regulations (Comprehensive Trip Log)**

This emergency regulatory action amends the manifesting requirements for waste and used tire haulers, waste tire generators, tire dealers, retreaders and end use facilities. (Previous OAL file # 05-0602-02 E)

Title 14  
California Code of Regulations  
ADOPT: 18459.1.2 AMEND: 18449, 18450, 18451, 18453.2, 18456, 18456.2.1, 18459, 18459.1, 18459.2.1, 18459.3, 18460.1, 18460.1.1, 18460.2, 18460.2.1, 18461, 19462, 18463, 18464, 18466  
Filed 10/12/05  
Effective 10/12/05  
Agency Contact: Wendy Breckon (916) 341-6068

**CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD**

**Recycling Market Development Loan Program**

This is the timely resubmission of a previously disapproved action that would update the Recycling Market Development Loan program with a new specification of application requirements and miscellaneous updates, and adopt a new article with rules that identify programs and activities the Board may participate in for the purpose of leveraging funds from the Recycling Market Development Revolving Loan Program Subaccount.

Title 14  
California Code of Regulations  
ADOPT: 17939.1, 17939.2, 17939.3, 17939.4, 17939.5 AMEND: 17930, 17931, 17932, 17933, 17934, 17934.1, 17934.3, 17934.5, 17935, 17935.1, 17935.2, 17935.3, 17935.4, 17935.5, 17935.55, 17935.6, 17936  
Filed 10/18/05  
Effective 11/17/05  
Agency Contact: John Nuffer (916) 341-6527

**DEPARTMENT OF FISH AND GAME**

**Fees for Lake and Streambed Alteration Agreements**

This action establishes a tiered fee structure applicable to Department of Fish and Game administration and review of lake and streambed alteration agreements.

Title 14  
California Code of Regulations  
AMEND: 699.5  
Filed 10/13/05  
Effective 11/12/05  
Agency Contact:  
Stephen Puccini (916) 654-3821

**DEPARTMENT OF FOOD AND AGRICULTURE**  
**Asian Longhorned Beetle Eradication Area**

This filing is a certificate of compliance for an emergency regulatory action which established Sacramento County as an eradication area for the Asian longhorned beetle (*Anoplophora glabripennis*), identified possible carriers, and established the means and methods for eradication and control.

Title 3  
California Code of Regulations  
ADOPT: 3591.18  
Filed 10/18/05  
Effective 10/18/05  
Agency Contact: Stephen Brown (916) 654-1017

**DEPARTMENT OF FOOD AND AGRICULTURE**  
**Mediterranean Fruit Fly Interior Quarantine**

In this emergency regulatory action, the Department of Food and Agriculture amends its regulation pertaining to "Mediterranean Fruit Fly Interior Quarantine" to add a new quarantine area in the San Jose area of Santa Clara County.

Title 3  
California Code of Regulations  
AMEND: 3406(b)  
Filed 10/19/05  
Effective 10/19/05  
Agency Contact: Stephen Brown (916) 654-1017

**DEPARTMENT OF FOOD AND AGRICULTURE**  
**Mediterranean Fruit Fly Interior Quarantine**

In this emergency rulemaking, the Department of Food and Agriculture amends its regulation pertaining to the "Mediterranean Fruit Fly Interior Quarantine" to expand its recently-established quarantine area in San Bernardino County.

Title 3  
California Code of Regulations  
AMEND: 3406(b)  
Filed 10/17/05  
Effective 10/17/05  
Agency Contact: Stephen Brown (916) 654-1017

**DEPARTMENT OF HEALTH SERVICES**  
**Radiation Control Fee Adjustments**

This filing is a certificate of compliance for an emergency regulatory action which increased the fees for registration, licenses, permits, and evaluations imposed for the purposes of radiation control paid into the Radiation Control Fund and made other related changes.

Title 17  
California Code of Regulations  
ADOPT: 30194.1, 30194.2 AMEND: 30100, 30145, 30145.1, 30225, 30230, 30231, 30408, 30535  
REPEAL: 30232

Filed 10/18/05  
Effective 10/18/05  
Agency Contact: Cathy Ruebusch (916) 440-7841

**DEPARTMENT OF MOTOR VEHICLES**  
**Medical Requirements for Drivers**

This regulatory action adopts the Federal Motor Carrier Safety Administration guidelines for hypertension for commercial drivers.

Title 13  
California Code of Regulations  
AMEND: 28.18, 28.19, 28.20, 28.21, 28.22, 28.23  
Filed 10/18/05  
Effective 11/17/05  
Agency Contact: Randi Calkins (916) 657-8898

**FAIR POLITICAL PRACTICES COMMISSION**  
**SEI's From Filers of Abolished Agencies**

This is an adoption concerning statements of economic interests from filers of abolished agencies.

Title 2  
California Code of Regulations  
ADOPT: 18732.5  
Filed 10/18/05  
Effective 11/17/05  
Agency Contact: Andy Rockas (916) 322-5660

**STATE WATER RESOURCES CONTROL BOARD**  
**Emergency Regulations to Implement Water Code Sections 13260(f) and 13269**

State Water Resources Control Board (SWRCB) adopted emergency regulatory action on 5/19/05, amending CCR 2200, Annual Fee Schedules, pursuant to Water Code (WC) section 13260(f). SWRCB also adopted emergency regulatory action on 6/16/05 adopting CCR 2200.6, Annual Waiver Fee Schedules, pursuant to Water Code (WC) section 13269(a)(4). Both actions were submitted to the Office of Administrative Law (OAL) on 10/3/05 and marked effective 7/1/05 (beginning of FY 05-06). WC sections 13260(f) and 13269(a)(4) grant SWRCB emergency regulatory authority for these regulations (deemed emergency) without OAL review and provide that any amendment or adoption shall remain in effect until revised by SWRCB.

Title 23  
California Code of Regulations  
ADOPT: 2200.6 AMEND: 2200  
Filed 10/13/05  
Effective 10/13/05  
Agency Contact: Miles Burnett (916) 341-6997

**STATE WATER RESOURCES CONTROL BOARD**  
**Amendments to the California Ocean Plan**

This regulatory action amends the California Ocean Plan making changes in the following areas: 1) Choice of Indicator Organisms for Water-Contact Bacterial

Standards, 2) Reasonable potential: Determining when Ocean Plan Water Quality-based Effluent Limitations are Required, and 3) Classification of Areas of Special Biological Significance (ASBS) as State Water Quality Protection Areas (SWQPs), rename certain ASBS to coincide with name changes corresponding to Marine Managed Areas, and clarification that all exceptions are subject to Triennial Review.

Title 23  
California Code of Regulations  
ADOPT: 3005  
Filed 10/12/05  
Effective 10/12/05  
Agency Contact:  
Dominic Gregorio (916) 341-5488

**SUPERINTENDENT OF PUBLIC INSTRUCTION  
CDD Programs—Child Protective Services and At Risk Children**

This regulatory action is to implement and make specific the amendments to Education Code § 8263. This amended statute strictly limits the amount of time for provision of child care and development services to children referred due to being at risk of abuse, neglect, or exploitation, while increasing from 6 to 12 months the time between recertification's for these services for children in the child protective services system. It also newly requires the family to pay fees for these services unless they are exempt based on a referral.

Title 5  
California Code of Regulations  
ADOPT: 18092.5 AMEND: 18066, 18069, 18078, 18081, 18083, 18084, 18092, 18103, 18106, 18109, 18110  
Filed 10/14/05  
Effective 10/14/05  
Agency Contact: Debra Strain (916) 319-0641

**SUPERINTENDENT OF PUBLIC INSTRUCTION  
CDD Programs—Child Protective Services and At Risk Children**

This regulatory action addresses eligibility and recertification requirements for child care and development services for both at risk children and children receiving child protective services (Prior OAL File Number 05-0426-04 E)

Title 5  
California Code of Regulations  
ADOPT: 18092.5 AMEND: 18066, 18069, 18078, 18081, 18083, 18084, 18092, 18103, 18106, 18109, 18110  
Filed 10/14/05  
Effective 10/14/05  
Agency Contact: Debra Strain (916) 319-0641

**CCR CHANGES FILED WITH THE  
SECRETARY OF STATE  
WITHIN MAY 25, 2005  
TO OCTOBER 19, 2005**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 2**

10/18/05 ADOPT: 18732.5  
10/11/05 AMEND: 18450.4  
10/11/05 ADOPT: 18117, 18772  
10/11/05 AMEND: 18401, 18427.1, 18700, 18705, 18707.9, 18730, 18750  
10/06/05 ADOPT: 18735.5  
09/23/05 ADOPT: 2280, 2281, 2282, 2283, 2284  
09/15/05 AMEND: Div. 8, Ch. 71, Sec. 56000  
09/13/05 AMEND: 18730  
09/07/05 AMEND: Div. 8, Ch. 99, Sec. 58800  
09/06/05 ADOPT: 1183.12, 1183.13, 1183.14  
AMEND: 1181, 1181.1, 1181.2, 1181.3, 1183, 1183.01, 1183.02, 1183.03, 1183.04, 1183.05, 1183.06, 1183.07, 1183.08, 1183.1, 1183.11, 1183.12, 1183.2, 1183.21, 1183.3, 1187, 1187.2, 1187.3, 1187.4, 1188.1, 1188.3, 1188.4,  
08/29/05 AMEND: Div. 8, Ch. 6, Sec. 27000  
08/15/05 AMEND: 51000  
08/09/05 ADOPT: 59520  
08/04/05 AMEND: 2271  
07/27/05 ADOPT: Div. 8, Ch. 23, Sec. 44000  
07/20/05 AMEND: 18570  
07/20/05 ADOPT: 18530.7  
07/18/05 AMEND: 18452  
07/18/05 AMEND: 55400  
07/06/05 AMEND: 7286.0  
06/24/05 AMEND: 599.502, 599.506  
06/21/05 AMEND: 18705.5  
06/16/05 AMEND: Div. 8, Ch. 4, section 25001  
06/14/05 ADOPT: 18750.2, 18755 AMEND: 18702.4  
05/31/05 ADOPT: 1859.300, 1859.301, 1859.302, 1859.310, 1859.311, 1859.312, 1859.313, 1859.314, 1859.315, 1859.316, 1859.317, 1859.318, 1859.319, 1859.320, 1859.321, 1859.322, 1859.323, 1859.323.1, 1859.323.2, 1859.324, 1859.325, 1859.326, 1859.327, 1859.328, 185  
05/27/05 AMEND: 20107

05/27/05 AMEND: 1859.2  
 05/26/05 ADOPT: 18465.1  
 05/26/05 AMEND: 1859.2, 1859.81, 1866

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10/19/05 AMEND: 3406(b)  
 10/18/05 ADOPT: 3591.18  
 10/17/05 AMEND: 3406(b)  
 10/07/05 AMEND: 3406(b)  
 10/07/05 ADOPT: 6551  
 10/04/05 ADOPT: 3963  
 10/03/05 AMEND: 3433  
 09/28/05 ADOPT: 3591.19  
 09/27/05 AMEND: 3700(c)  
 09/16/05 ADOPT: 581  
 08/12/05 AMEND: 3700(c)  
 08/08/05 ADOPT: 1811, 1812, 1850 AMEND:  
 1804, 1806, 1808, 1831, 1930, 1931,  
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 07/21/05 AMEND: 6400  
 07/11/05 AMEND: 3423(b)  
 07/01/05 AMEND: 2311(b)  
 06/27/05 ADOPT: 3591.18  
 06/22/05 AMEND: 3430(b)  
 06/09/05 ADOPT: 3700  
 06/03/05 ADOPT: 3963

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10/12/05 AMEND: 1433  
 09/13/05 ADOPT: 1843.6  
 09/12/05 AMEND: 4140  
 08/24/05 AMEND: 1663  
 08/17/05 AMEND: 1976.9  
 08/08/05 AMEND: 1887  
 06/27/05 ADOPT: 10175, 10176, 10177, 10178,  
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 05/26/05 ADOPT: 7030, 7031, 7032, 7033, 7034,  
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10/19/05 AMEND: 11900, 11905, 11915, 11920,  
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 10/14/05 ADOPT: 18092.5 AMEND: 18066,  
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 18092, 18103, 18106, 18109, 18110  
 10/14/05 ADOPT: 18092.5 AMEND: 18066,  
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 10/11/05 ADOPT: 18220.2, 18224.2, 18224.4,  
 18240.5, 18249 AMEND: 18220, 18240,  
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10/11/05 ADOPT: 19850, 19851, 19852, 19853,  
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 09/01/05 REPEAL: 1630  
 08/22/05 AMEND: 850, 851, 852, 853, 853.5, 854,  
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 08/16/05 ADOPT: 1207.5 AMEND: 1200, 1203,  
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 08/01/05 ADOPT: 15140, 15141  
 07/28/05 ADOPT: 1030.5, 1030.6, 1030.7, 1030.8  
 07/12/05 AMEND: 22000  
 06/23/05 ADOPT: 11992, 11993, 11994  
 06/22/05 ADOPT: 11967.6, 11967.7, 11967.8  
 AMEND: 11967, 11968, 11969  
 06/20/05 ADOPT: 19817.1, 19826.1, 19828.1,  
 19837 AMEND: 19813, 19814, 19814.1,  
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 06/09/05 ADOPT: 11511.6, 11516.6, 11516.7,  
 11517.5 AMEND: 11510, 11511,  
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 06/08/05 ADOPT: 17101 AMEND: 9531  
 06/01/05 AMEND: 41500, 41503, 41504, 41505  
 05/26/05 AMEND: 30060  
 05/26/05 AMEND: 80413

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09/29/05 AMEND: 9789.11  
 09/22/05 ADOPT: 9792.6, 9792.7, 9792.8, 9792.9,  
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 09/09/05 ADOPT: 9767.1, 9767.2, 9767.3, 9767.4,  
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 08/25/05 AMEND: 6184  
 08/22/05 ADOPT: 3395  
 08/10/05 AMEND: 8615  
 08/09/05 AMEND: 6251  
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 08/02/05 AMEND: 770  
 07/28/05 AMEND: 1529, 1535, 5190, 5210, 8358  
 06/28/05 AMEND: 3541, 3542, 3543, 3544, 3545,  
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 06/20/05 ADOPT: 9767.1, 9767.2, 9767.3, 9767.4,  
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 9767.10, 9767.11, 9767.12, 9767.13,  
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 06/20/05 AMEND: 3649, 3651(a)  
 06/15/05 AMEND: 1670(b)(11)(B)  
 06/10/05 ADOPT: 9785.4, 9805.1 AMEND: 9725,  
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 06/10/05 ADOPT: 9768.1, 9768.2, 9768.3, 9768.4,  
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06/06/05 ADOPT: 10133.50, 10133.51, 10133.52,  
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10133.57, 10133.58, 10133.59, 10133.60  
05/31/05 ADOPT: 32032, 32033, 32034, 32035,  
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2698.37, 2698.38, 2698.39, 2698.40,  
2698.41, 2698.42, 2698.43 REPEAL:  
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2698.37, 2698.38, 2698.39, 2698.40,  
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09/28/05 AMEND: 260.121  
09/28/05 AMEND: 2498.4.9  
07/07/05 AMEND: 4010, 4011, 4013, 4016, 4018,  
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06/30/05 AMEND: 2699.6600, 2699.6809  
06/23/05 AMEND: 2498.6  
06/22/05 AMEND: 260.102.14  
06/03/05 AMEND: 2698.61, 2698.62  
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08/22/05 AMEND: 1001, 1002, 1007  
08/22/05 AMEND: 1002, 1007, 1018, 1008, 1015  
08/12/05 AMEND: 1005, 1060  
08/01/05 AMEND: 1005, 1014  
07/28/05 ADOPT: 720, 721, 722, 723, 724,  
06/24/05 AMEND: 63.2  
06/15/05 AMEND: 1005, 1007, 1008  
06/15/05 AMEND: 1053  
06/13/05 ADOPT: 308, 312.1 AMEND: 300, 301,  
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06/14/05 AMEND: 503(f)

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10/18/05 AMEND: 28.18, 28.19, 28.20, 28.21,  
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09/15/05 ADOPT: 1961.1 AMEND: 1900, 1961

09/15/05 AMEND: 1961(d)  
09/12/05 AMEND: 2262, 2264.2, 2266.5(a)(6)  
08/24/05 AMEND: 551.2, 551.15  
08/18/05 AMEND: 2754  
08/16/05 AMEND: 345.39, 345.45, 345.56, 345.78  
08/11/05 AMEND: 423.00  
08/08/05 AMEND: 2185  
08/02/05 AMEND: 2450, 2451, 2452, 2454, 2455,  
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07/28/05 AMEND: 25.15, 25.18, 25.19, 25.21,  
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07/19/05 ADOPT: 15.04  
05/31/05 AMEND: 551.1, 551.6, 555, 558, 560,  
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07/05/05 ADOPT: 2299 (Title 13), 93117 (Title 17)  
AMEND: 2281 (Title 13), 2282  
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10/18/05 ADOPT: 17939.1, 17939.2, 17939.3,  
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10/13/05 AMEND: 895, 895.1, 1038, 1038(f)  
10/13/05 AMEND: 699.5  
10/12/05 ADOPT: 18459.1.2 AMEND: 18449,  
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10/06/05 AMEND: 15000, 15001, 15002, 15003,  
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09/20/05 AMEND: 13800  
08/26/05 AMEND: 7.50(b)(91.1)  
08/24/05 AMEND: 183 REPEAL: 188  
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08/08/05 ADOPT: 4970.02, 4970.03, 4970.04, 4970.05, 4970.06, 4970.07, 4970.08, 4970.09, 4970.10, 4970.11, 4970.12, 4970.13, 4970.14, 4970.15, 4970.16, 4970.17, 4970.18, 4970.19, 4970.20, 4970.21 AMEND: 4970.00, 4970.01 REPEAL: 4970.02, 4970.03, 4970.04, 4970.05

08/05/05 ADOPT: 1052.4 AMEND: 895.1, 1052, 1052.1

07/21/05 AMEND: 18419

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07/13/05 AMEND: 122 REPEAL: Appendix A, Form DFG 122

06/21/05 AMEND: 895, 895.1, 1038, 1038(f)

06/09/05 AMEND: 782

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09/13/05 ADOPT: 3480, 3480.1, 3483, 3484, 3485 AMEND: 3084.1, 3084.7, 3480, 3481, 3482, 3483

08/23/05 AMEND: 3025

08/03/05 ADOPT: 3436

07/07/05 ADOPT: 3187 AMEND: 3006, 3188, 3189, 3331

06/27/05 REPEAL: 3999.1.7

06/22/05 AMEND: 2000, 2400, 2403

06/21/05 REPEAL: 3999.1.2

06/21/05 REPEAL: 3999.1.3

06/15/05 AMEND: 3335

06/08/05 ADOPT: 2251.5, 2251.6, 2251.7 AMEND: 2041, 2072, 2073, 2074 REPEAL: 2050, 2051, 2052, 2054, 2055, 2056, 2701

06/02/05 AMEND: 1006, 1010, 1018, 1020, 1021, 1023, 1025, 1028, 1029, 1045, 1046, 1051, 1052, 1065, 1083, 1144, 1206, 1209, 1240, 1241, 1242, 1243, 1245, 1246, 1247, 1248, 1262, 1265, 1267, 1270, 1271 REPEAL: 1218

06/01/05 ADOPT: 4141, 4141.1

05/26/05 AMEND: 3287

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10/06/05 AMEND: 1016, 1017

10/05/05 AMEND: 1014, 1014.1

09/20/05 AMEND: 407(c)

09/09/05 AMEND: 1399.170.11

09/07/05 ADOPT: 1712 AMEND: 1706.2, 1715, 1717, 1719, 1720, 1720.1, 1725, 1726, 1728, 1732, 1732.05, 1732.1, 1732.2, 1732.3, 1732.4, 1732.5, 1732.6, 1732.7, 1745, 1749 REPEAL: 1727, 1750

09/06/05 ADOPT: 1070.4

09/06/05 ADOPT: 1659.30(a)(b)(c), 1659.31(a)(b), 1659.32(a)(b), 1659.33, 1659.34(a)(b)(c), 1659.35

08/29/05 AMEND: 404.1, 404.2

08/25/05 AMEND: 1399.15

08/25/05 AMEND: 473

08/16/05 ADOPT: 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, 4216, 4218, 4220, 4222, 4224, 4226, 4228, 4230, 4232, 4234, 4236, 4240, 4242, 4244, 4246, 4248, 4250, 4252, 4254, 4256, 4258, 4260, 4262, 4264, 4266, 4268

07/28/05 AMEND: 1387, 1387.1, 1387.2, 1387.3, 1387.5, 1387.6, 1390, 1390.3, 1391

07/27/05 AMEND: 2085.2

07/26/05 AMEND: 418

07/22/05 AMEND: 109, 116, 117

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07/21/05 ADOPT: 1070.5

07/18/05 ADOPT: 1399.327, 1399.350.5, 1399.352.7, 1399.372.5

07/12/05 AMEND: 1397.51

07/06/05 ADOPT: 1922.3, 1993.1 AMEND: 1950.5, 1951, 1953

07/05/05 ADOPT: 1398.26.1

07/05/05 ADOPT: 1399.454 AMEND: 1399.450, 1399.451

06/22/05 AMEND: 1041

05/31/05 AMEND: 4154

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10/18/05 ADOPT: 30194.1, 30194.2 AMEND: 30100, 30145, 30145.1, 30225, 30230, 30231, 30408, 30535 REPEAL: 30232

09/12/05 ADOPT: 1029.117, 1029.134, 1031.8, 1031.9, 1032.5, 1035.3, 1035.4

09/07/05 REPEAL: 1411.1, 1420.1, 1420.2, 1420.3, 1420.4, 1420.5, 1422.3, 1498, 1498.1, 1498.2, 1498.3, 1498.4, 1498.5, 1498.6, 1498.7, 1498.8, 1498.9

08/31/05 ADOPT: 93102.5

08/18/05 AMEND: 94006

08/01/05 ADOPT: 58800, 58810, 58811, 58812, 58820, 58821, 58822, 58830, 58831, 58832, 58833, 58834, 58840, 58841, 58842, 58850, 58851, 58860, 58861, 58862, 58863, 58864, 58870, 58871,

58872, 58873, 58874, 58875, 58876,  
58879, 58880, 58881, 58882 AMEND:  
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07/22/05 ADOPT: 50243, 50245, 50247, 50249,  
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50261, 50262, 50263, 50265, 50267

07/11/05 AMEND: 54319

06/30/05 AMEND: 2500, 2502, 2505

06/23/05 AMEND: 60201, 60202, 60205, 60210

06/22/05 ADOPT: 30194.1, 30194.2 AMEND:  
30100, 30145, 30145.1, 30225, 30230,  
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06/20/05 AMEND: 94501, 94506, 94507, 94508,  
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10/04/05 AMEND: 1698

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06/07/05 ADOPT: 1160, 1214, 1331.2, 1425, 2257,  
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05/26/05 AMEND: 3.11

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2833, 2834, 2835, 2836, 2840, 2841,  
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07/26/05 AMEND: 1340, 1341, 1342, 1343, 1344

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06/03/05 ADOPT: 4059, 4060, 4062.1, 4066, 4067,  
4069, 4072.1 AMEND: 4050, 4052, 4055,  
4056, 4057, 4058, 4061, 4062, 4063,  
4064, 4070, 4071, 4072, 4073 REPEAL:  
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10/04/05 AMEND: 80072(a)(8), 85068.4

09/27/05 AMEND: 311-1

09/27/05 ADOPT: 4400(jj), 4403.1, 4446.5  
AMEND: 4400(I), 4403, 4412.1, 4415,  
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09/02/05 AMEND: 4418 REPEAL: 4419, 4442.1,  
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08/24/05 AMEND: 51510, 51510.1, 51511,  
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08/12/05 AMEND: 12805

08/12/05 AMEND: 12705

08/11/05 AMEND: 97212, 97232, 97241.

08/10/05 ADOPT: 97800, 97810, 97820, 97830,  
97840, 97850, 97860, 97870, 97880,  
97890

07/11/05 AMEND: 70217

07/06/05 ADOPT: 72516, 73518

06/30/05 AMEND: 90417

06/02/05 ADOPT: 51000.10.1, 51000.15.1,  
51000.20.9, 51000.31, 51000.51,  
51000.52, 51000.53, 51000.60 AMEND:  
51000.1, 51000.1.1, 51000.3, 51000.4,  
51000.6, 51000.7, 51000.16, 51000.30,  
51000.35, 51000.40, 51000.45, 51000.50,  
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08/05/05 ADOPT: 40-036 AMEND: 22-071, 22-  
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42-721, 42-751, 42-769, 44-101, 44-102,  
44-111, 44-113, 44-115,

06/29/05 AMEND: 63.103.2, 63-300.5, 63-  
402.229, 63-503.441, 63-509(b), 63-  
509(c), 63-801.737(QR)

06/15/05 AMEND: 80027, 80036, 87224, 87228,  
87834, 87836, 101178, 101187, 102384

#### **Title 23**

10/13/05 ADOPT: 2200.6 AMEND: 2200

10/12/05 ADOPT: 3005

10/04/05 AMEND: 2908

10/03/05 AMEND: 3900

09/22/05 ADOPT: 18456.2.1, 18460.2.1, Forms  
CIWMB 173 (4/04), 180(3/04) AMEND:  
18449, 18450, 18451, 18456, 18459,  
18459.2.1, 18459.3, 18461, 18462

09/08/05 ADOPT: 3966

08/19/05 AMEND: 2611

08/18/05 ADOPT: 3906

07/25/05 ADOPT: 3298

07/22/05 ADOPT: 3979

07/13/05 ADOPT: 3420, 3421, 3422, 3423, 3424,  
3425, 3426, 3427, 3428

06/20/05 ADOPT: 499.4.1.1, 499.4.1.2, 499.4.2,  
499.6.3 AMEND: 499.1, 499.2, 499.3,  
499.4, 499.4.1, 499.5, 499.6, 499.6.1,  
499.7, 499.8 REPEAL: 499.6.2

06/13/05 ADOPT: 18459.1.2, Form CIWMB 203,  
Form 204 AMEND: 18449, 18450,  
18451, 18453.2, 18456, 18456.2.1,  
18457, 18459, 18459.1, 18459.2.1,  
18459.3, 18460.1, 18460.1.1, 18460.2,  
18460.2.1, 18461, 18462, 18463, 18464,  
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05/31/05 ADOPT: 2917

**Title 25**

09/27/05 ADOPT: 8430, 8431, 8432, 8433, 8434  
08/12/05 AMEND: 8204, 8210, 8211, 8212,  
8212.1, 8213, 8217  
07/22/05 ADOPT: 1019, 1105, 1276, 2105, 2276  
07/11/05 AMEND: 8002, 8004, 8012, 8014  
07/07/05 ADOPT: 8439, 8439.1, 8439.2, 8439.3,  
8439.4, 8440, 8440.1, 8440.2, 8440.3,  
8441, 8441.1, 8441.2, 8441.3, 8441.4,  
8441.5, 8442, 8442.1, 8442.2, 8442.3,  
8442.4, 8442.5, 8442.6, 8442.7, 8442.8,  
8442.9, 8442.10, 8442.11, 8443, 8443.1,  
8443.2, 8443.3, 8443.4,

**Title 27**

09/29/05 ADOPT: 20070, 21569, 21835  
09/26/05 ADOPT: 15241, 15242

**Title 28**

08/22/05 ADOPT: 1300.67.1.3  
08/10/05 ADOPT: 1300.75.4.2, 1300.75.4.4,  
1300.75.4.7, 1300.75.4.8 AMEND:  
1300.75.4, 1300.75.4.5  
07/25/05 AMEND: 1300.74.30  
06/17/05 AMEND: 1300.70.4

**Title MPP**

09/20/05 REPEAL: 11-405.22  
08/12/05 AMEND: 42-101  
08/05/05 ADOPT: 63-508, 63-509 AMEND: 63-  
034, 63-102, 63-103, 63-300, 63-301,  
63-410, 63-501, 63-503, 63-504, 63-505,  
63-801, 63-804  
08/01/05 AMEND: 11-400, 11-102, 11-403, 11-406

